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## FRIDAY, JANUARY 13

- 9:00 a.m.  
**Partnership Agreements**  
 Wesley Hampton, Narver Insurance  
 Gary Barr, Alpert Barr & Grant  
*1 MCLE Hour (Legal Ethics)*
- 10:00 a.m.  
**Top Ten Insurance Mistakes and How Best to Advise Your Client**  
 Elliot Matloff, The Matloff Company  
*1 MCLE Hour*
- 11:00 a.m.  
**Elimination of Bias**  
 Carol Newman and John Stephens  
*1 MCLE Hour*  
*(Recognition and Elimination of Bias)*
- 12:00 noon  
**Lunch**
- 1:00 p.m.  
**Practice, Manage, Grow: Leveraging Technology to Maximize Efficiency and Increase Your Bottom Line**  
 Thomson Reuters  
*1 MCLE Hour*
- 2:00 p.m.  
**Fraud's Origin and Consequences**  
 Chris Hamilton, CPA, CFE, CVA  
 Arxis Financial, Inc.  
*1 MCLE Hour (Legal Ethics)*
- 3:00 p.m.  
**Common Misconceptions: Marriage, Divorce & Cohabitation**  
 Veronica Wood  
 Lewitt Hackman Shapiro Marshall & Harlan, ALC  
*1 MCLE Hour*
- 4:00 p.m.  
**Employment Law Update**  
 Hannah Sweiss and Tal Yeyni  
 Lewitt Hackman Shapiro Marshall & Harlan, ALC  
*1 MCLE Hour*

## SATURDAY, JANUARY 14

- 9:30 a.m.  
**Nuts and Bolts of Estate Planning**  
 Alice A. Salvo  
 Law Offices of Alice A. Salvo  
*1.5 MCLE Hours*
- 11:00 a.m.  
**Avoiding Bar Discipline**  
 Professor Robert Barrett  
*2 MCLE Hours (Legal Ethics)*
- 1:00 p.m.  
**Lunch**
- 1:45 p.m.  
**Prevention of Substance Abuse**  
 Greg Dorst, The Other Bar  
*1 MCLE Hour (Competence Issues)*
- 2:45 p.m.  
**If It's Not Admissible, Why Bother?**  
 Jack Trimarco  
 Jack Trimarco Polygraph Services  
*1 Hour MCLE*

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On the cover (left to right): David Seror, Corey Weber, Nicholas Rozansky, Steven Gubner and Mark Brutzkus  
Photo by Ron Murray

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# The SFVBA's Upcoming Journey to Cuba

**KIRA S. MASTELLER**  
SFVBA President



[president@sfvba.org](mailto:president@sfvba.org)

**T**HIS COMING YEAR THE SAN Fernando Valley Bar Association will offer a Cross-Cultural Educational Exchange Trip to Cuba, a unique opportunity for SFVBA members, our families, and friends.

After attending the American Bar Association's Bar Leadership Institute last March and meeting Michael Sykes, who organizes educational trips to points across the globe for many bar associations, we decided it would be a great time to bring such an opportunity to the SFVBA. What better way to get to know other bar members, while spending quality time with family, taking in the rich culture and history of Cuba, the island country only a handful of miles from the United States and, until recently, virtually inaccessible to U.S. visitors.

Our SFVBA Cuba trip will include five star accommodations in central Havana and an exciting itinerary, including visits to the home of

Cuba's former president Jose Miguel Gomez and the lavish Palacio de los Matrimonios, the massive renovation project of the Capitolio, and the Parque de la Fraternidad—an old taxi central which has many makes and models of '50s-era American-made cars.

We will explore the Plaza de San Francisco—a cobbled plaza surrounded by buildings dating from the 18<sup>th</sup> century, that is dominated by the baroque Iglesia and Conventor de San Francisco dating from 1719—and learn about the ongoing Escuela de Taller Restoration Project in Havana Vieja, where the preservation of architectural history and cultural heritage is the priority.

We will also visit schools, artist studios, and art museums; enjoy orchestras; and attend lectures, including one presented by a former judge and professor of law at the University of Havana, and another by a noted Cuban historian. In addition, we will take a bus tour of the modern

architecture of western Havana and walk through at one of the country's most famous cigar factories.

Participants will meet with attorneys, accountants and other members of Cuba's emerging class of self-employed professionals, who are developing business plans and marketing their services while navigating the island nation's evolving system of contract and licensing regulations.

Fine dining, tropical cocktails, and great company—along with special performances of Cuban music and dance—will make for unforgettable evenings, with many more fantastic day trips and educational opportunities available.

The SFVBA's Cross-Cultural Educational Exchange Trip to Cuba is scheduled for the week of October 23, 2017. Please save the date in your calendar and watch your email and the *Valley Lawyer* for more details and instructions on how to register for the trip. 



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## Building a Legacy

**MICHAEL D. WHITE**  
SFVBA Editor



[michael@sfvba.org](mailto:michael@sfvba.org)


**T**HERE'S A LOT OF TALK TODAY about legacies and what kind of values and aspirations we, as a society, will hand down to those who follow after us. Unfortunately, much of the legacy building over the past few years has balanced on individual motivation (e.g., "what will future generations think of me") and political ambition (e.g., "will future generations carry on my agenda"), with the concept of doing good simply for the sake of doing good, often buried under piles of ego-driven self-promotion.

Thank heaven there are glowing exceptions. When I recently interviewed member Steven Gubner—the highest bidder for this cover in the VCLF's online auction—and his firm, Brutzkus Gubner Rozansky Seror Weber LLP, for an article on their community service activities, a couple of things later jumped out at me from my notes. First was the continuum of legacy building, from father to son and, once again, father to son, that's played such a defining role, in his own life, and in that of his family and, in turn, his firm.

The value of community service was handed-off to Gubner from his father, "a blue-collar guy who worked six days a week," who performed countless acts of giving back over the years. The example

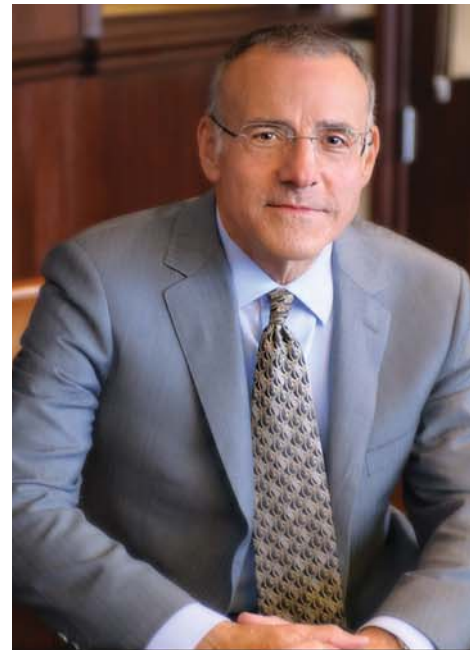
wasn't lost as Steve has passed that precious gift down to his own children, and to his firm, of which the individual members have set a standard of good works that others should aspire to without thought of recompense or reward. The challenge, he says, is motivating younger attorneys. Burdened with serious student loan debt and the challenges of forging the right path in their chosen profession, they often have scant time for anything other than conforming to the often all-consuming, winning-and-losing mindset at the very core of the legal profession.

"We work hard to instill a sense of community service in our new attorneys and get them to see that real value doesn't always necessarily come from making money," says Gubner. "Every hour you invest doesn't have to be billable."

It was a lesson he learned from seeing his father give back with no expectation of a return-on-investment, he says, noting that "nobody's called me and said 'Steve, I have \$1 million case for you.' I've been on the board of United Cerebral Palsy for 20 years and I haven't seen any work come out of it and that's perfectly okay. We're not doing it to generate business...were doing it because we want to give back." 

### Correction to November Issue

In our November issue the editing process resulted in Angela Berry's "Proposition 47 Update" article containing some errors and misleading information. Regrettably, *Valley Lawyer's* high standards were not upheld. Editorial errors were on page 30 in the first two paragraphs and the last paragraph under the subheading, "Procedure for Relief for Past Convictions." The printed version had an incorrect statement about how unreasonable risk can be shown. The law is, as Berry states, that an unreasonable risk can be shown by an unreasonable risk that the petitioner will commit a super strike. Other serious or violent felonies such as robbery, kidnapping or arson are immaterial. The online version has been corrected. *Valley Lawyer* apologizes for these errors.



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SUN	MON	TUE	WED	THU	FRI	SAT
				<b>Membership &amp; Marketing Committee</b> <b>6:00 PM</b> <b>SFVBA OFFICES</b>	<b>Valley Lawyer Member Bulletin</b> Deadline to submit announcements to editor@sfvba.org for January issue.	
4	5	<b>Editorial Committee</b> <b>12:00 NOON</b> <b>TONY ROMA'S</b>	7	8	<b>Bankruptcy Law Section</b> The 10 Supreme Court Cases You Must Know <b>12:00 NOON</b> <b>SFVBA OFFICES</b> Noted bankruptcy attorneys Jonathan Hayes and David Gould and the Hon. Alan Ahart will discuss the ten critical Supreme Court Cases that can ruin your client's day and yours! (1.25 MCLE Hours)	<b>Blanket the Homeless and ARS Legal Clinic</b> <b>8:00 AM</b> <b>L.A. FAMILY HOUSING NORTH HOLLYWOOD</b>  See page 29
11	12	<b>Probate &amp; Estate Planning Section</b> New Medi-Cal Recovery Laws <b>12:00 NOON</b> <b>MONTEREY AT ENCINO RESTAURANT</b> Certified Elder Law Attorney Ruth Phelps will outline the latest. (1 Hour MCLE)	14	<b>Intellectual Property, Entertainment &amp; Internet Law Section</b> Cyber, Intellectual Property and Technology <b>12:00 NOON</b> <b>SFVBA OFFICES</b> John Stephens updates the group on the latest cybersecurity and intellectual property issues. (1 MCLE Hour)	16	17
18	19		20	21	22	23
25	26	27	28	29	30	31



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SUN	MON	TUE	WED	THU	FRI	SAT
<b>Happy New Year</b>						
<b>1</b>	<b>2</b> <b>Valley Lawyer Member Bulletin</b> Deadline to submit announcements to editor@sfvba.org for February issue.	<b>3</b>	<b>4</b>	<b>5</b> <b>Membership &amp; Marketing Committee</b> <b>6:00 PM</b> <b>SFVBA OFFICES</b>	<b>6</b>	<b>7</b>
<b>8</b>	<b>9</b>  <b>VBN</b> VALLEY BAR NETWORK <b>5:30 PM</b> <b>CHABLIS RESTAURANT TARZANA</b> VBN is dedicated to offering organized, high quality networking for SFVBA members.	<b>10</b> <b>Probate &amp; Estate Planning Section</b> Legislative and Case Law Update <b>12:00 NOON</b> <b>MONTEREY AT ENCINO RESTAURANT</b> David Coleman will discuss new laws and updates. (1 MCLE Hour) <b>Board of Trustees</b> <b>6:00 PM</b> <b>SFVBA OFFICES</b>	<b>11</b>	<b>12</b>	<b>13-14</b>  <b>SFVBA 20<sup>th</sup> Annual MCLE Marathon</b> Braemar Country Club Earn all your participatory credits, including specialized credits. See page 3	
<b>15</b>	<b>16</b>  <b>MARTIN LUTHER KING JR. DAY</b>	<b>17</b> <b>Taxation Law Section</b> An Update from the Board of Equalization <b>12:00 NOON</b> <b>SFVBA OFFICES</b> James Horner will outline recent changes occurring at the Board of Equalization. (1 MCLE Hour)	<b>18</b>	<b>19</b>		
<b>22</b>	<b>23</b> <b>Family Law Section</b> New Laws <b>5:30 PM</b> <b>MONTEREY AT ENCINO RESTAURANT</b> Barry Harlan kicks off the new year by bringing the Section up to speed on the latest laws and changes pertaining to the Family Law Court. Approved for Legal Specialization. (1.5 MCLE Hours)	<b>24</b> <b>Editorial Committee</b> <b>12:00 NOON</b> <b>TONY ROMA'S</b>	<b>25</b>	<b>26</b>	<b>27</b>	<b>28</b>
<b>29</b>	<b>30</b>	<b>31</b>				

# Taking a Dip in the Tip Pool

## *Where Federal and State Laws Collide*

By Brian E. Koegle



**I**N THE RESTAURANT AND service industry, the custom of “tip pooling” is a way of life. Under that policy, tipped employees—such as servers and direct service employees—are required to share or distribute a portion of their tips to “back of the house” support staff (e.g., dishwashers, busboys, kitchen staff, etc.)

The policy came into question recently when the Ninth Circuit Court of Appeals looked into whether such tip pools violated the federal Fair Labor Standards Act (FLSA). As it turns out, the answer to this question is yes.

Federal law allows an employer to count an employee’s tips toward the hourly minimum wage obligation. This is called a tip credit. Specifically, the Code of Federal Regulations<sup>1</sup> provides that tips are the property of the employee whether or not the employer has taken a tip credit under section 3(m) of the FLSA. The employer is prohibited from using an employee’s tips, whether or not it has taken a tip credit, for any reason other than that which is statutorily permitted in Section 3(m), “as a credit against its minimum wage obligations to the employee, or in furtherance of a valid tip pool.”

According to the section, only tips actually received by an employee as money belonging to the employee may be counted in determining whether the person is a tipped employee within the meaning of the Act and in applying the provisions of section 3(m) which govern wage credits for tips.

Employers who use this tip credit are required to provide written notice to their employees that the tips they receive will be used to satisfy the federal minimum wage requirements. The notice must also state that the employer allows employees to retain their own tips, unless the employer utilizes a valid



**Brian E. Koegle** is partner at Poole & Shaffery, LLP with offices in Santa Clarita and downtown Los Angeles. Mr. Koegle specializes in labor and employment law and handles both litigation and counseling matters. He can be reached at [bkoegle@pooleshaffery.com](mailto:bkoegle@pooleshaffery.com).




tip pool. If an employer does not use an employee's tip income to satisfy the minimum wage, no notice is required.

The FLSA also requires a tip pool to be comprised exclusively of employees who are "customarily and regularly" tipped—direct service employees—in order to be considered valid.

Six years ago, the Ninth Circuit determined that tip pooling (sharing with back-of-the-house employees) was lawful, at least as to those employers who did not take a tip credit against the minimum wage, because existing federal law was silent on the issue.<sup>2</sup> But less than a year after that decision, the U.S. Department of Labor (DOL) issued its own decision that extended the tip pool restrictions of the FLSA to all employers, regardless of whether they claim a tip credit against the minimum wage.

Fast forward to late February 2016, when the Ninth Circuit ruled in a split decision that the DOL opinion was appropriate and was a proper exercise of its power. Specifically, the court held that the agency has the right to issue a regulation defining what a tip pool is, and to which employers—whether or not they claim the tip credit against minimum wage—the law would apply.<sup>3</sup>

Based on this ruling, the DOL regulation will most likely invalidate existing, well-settled California law which permits tip-pooling for back-of-the-house employees. Under the federal rule, only employees who "customarily and regularly" receive tips can be in tip pools. This means that only those individuals who are directly involved in service—servers, bartenders, busboys, hosts—can participate, but everyone else is excluded. Since federal law trumps state law in this circumstance, the more stringent federal policy would apply to California employers.

It remains possible that the entire Ninth Circuit Court of Appeal may re-consider this ruling, or that the U.S. Supreme Court elects to review the decision at a later date. To date, however, the DOL regulation is the effective rule of law, which all employers must comply with. Failure to implement changes to existing, non-compliant policies could result in significant wage and hour violations, including class action claims. 

<sup>1</sup> 29 CFR §531.52.

<sup>2</sup> *Cumbe v. Woody Woo, Inc.*, 596 F.3d 577 (9th Cir. 2010).

<sup>3</sup> *Oregon Restaurant and Lodging Association LLC v. Perez*, 2016 WL 706678 (9th Cir. Feb.23, 2016).

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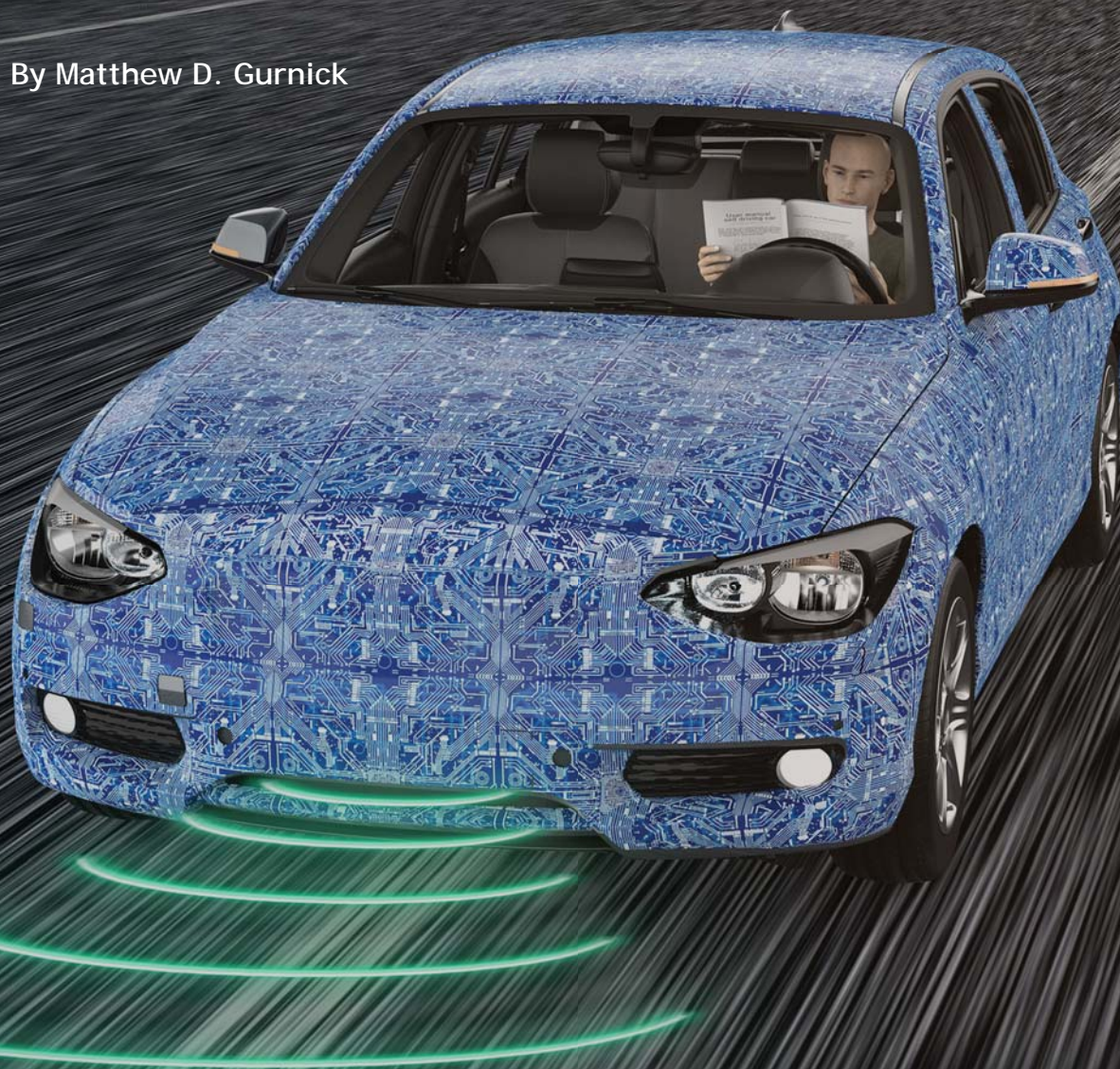




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# THE OLD AND THE NEW: Practice Areas for New Lawyers

By Matthew D. Gurnick



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The author explores legal developments and trends in a number of growing practice areas—such as an aging population and the latest technologies—and examines how new lawyers can implement fresh approaches and concepts to mold the future of the legal profession.

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**F**INDING ONE'S WAY IN LIFE AND IN LAW CAN BE daunting. Serendipity surely plays a role in every lawyer's transition from wide-eyed to well-seasoned. Fortunately, good luck exists where opportunity meets preparation. This article provides an overview of growing practice areas and emerging legal developments that present opportunities for new lawyers: an aging population and new technology.

### **An Aging America**

More than 200 years ago, in words still relevant now, the sage Benjamin Franklin famously wrote that, "In this world nothing is certain but death and taxes."<sup>1</sup>

According to the U.S. Department of Health and Human Services, by 2060, 98 million Americans will be over the age of 65, more than twice the number in 2014.<sup>2</sup> California alone will be home to almost 9 million people over age 65 by 2030, with one in every three residents of the state over the age of 50.<sup>3</sup>

An aging population poses challenges for communities and wide ranging legal issues. As the population ages, the number of people with serious functional and cognitive disabilities will increase, as will the usual infirmities of seniority, placing strains on healthcare and entitlement programs.

Employer-sponsored retirement, pension plans, healthcare, and insurance, along with government programs like Social Security and Medicare, have helped support many individuals as they age, but costs of these programs are expected to skyrocket as the elderly population grows.<sup>4</sup> How government and employer programs address the impacts of increasingly aged populations will be a significant issue for years to come, and will create critical legal questions.

New lawyers can expect increasing demand in a variety of practice areas that serve elderly populations like estate planning, guardianship, long term care, and issues relating to proper treatment of elders, to name a few. By learning these areas of practice, new lawyers can set themselves up for many years of opportunities for steady work and fulfilling service to the public.

Two legal developments will have a particularly large impact on aging populations—the Social Security Administration's new guidelines for mental health evaluations and the rise of elder abuse and related claims.

### **SSA's New Rules for Mental Health Evaluations**

This past September, the Social Security Administration (SSA) revised its criteria for evaluating claims involving mental disorders under Titles II and XVI of the Social Security Act to reflect advances in the medical profession.<sup>5</sup> The new rules, which take effect January 17, 2017, are the result of an extensive amendment process dating back to at least 2010 when SSA began a public comment process.<sup>6</sup>

The new rules are now consistent with current standard classifications in the mental health profession. To ensure that individuals receive necessary assistance as soon as possible, SSA "updated the diagnostic and functional criteria" and is "using IQ test score criteria to identify quickly people who may qualify for disability benefits based on an intellectual disability," among several other changes.<sup>7</sup> The revisions also provide new instructions for determining if an individual is disabled under Social Security programs.

There are four main changes to SSA's evaluation process.<sup>8</sup> First, adult mental health listings were updated to coincide with the American Psychological Association's categories for mental disorders, including additions for neurodevelopmental, eating, and trauma/stress or related disorders (e.g., post-traumatic stress syndrome or "PTSD"). Substance addiction disorders were removed, reflecting SSA's position that a substance abuse disorder alone is not enough for an individual to be approved.

Second, SSA modified the "B" criteria in its mental health listings, commonly known as the "four areas of functioning," which include the abilities to understand, remember, or apply information; interact with others; concentrate, persist, or maintain pace; and adapt or manage oneself.

SSA no longer views activities for daily living (ADLs) and episodes of decompensation (i.e., deterioration of an individual's mental health) as separate categories. However, ADLs are a primary source of information for all four areas of function and episodes of decompensation can still influence SSA's evaluation, especially with respect to how exacerbations or remissions affect an applicant's ability to function on a regular and continuing basis.

In addition, SSA considers the greatest degree of limitation for any single area of functioning to be the



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degree of limitation for the whole area of functioning (e.g., if an applicant has “marked” limitations in ability to understand, but “mild” limitations in ability to remember or apply information, the applicant will receive a marked rating for area 1 of functioning).

Third, SSA updated criteria for evaluating intellectual disorders to more closely track the definition of intellectual disability. The new criteria focuses on three elements: significant limitations in general intellectual functioning; significant deficits in adaptive functioning; and evidence that the disorder began before age 22. Applicants who can take a standardized intelligence test must have either an IQ score of 70 or below, or a score between 71 and 75, accompanied by a verbal or performance IQ score of 70 or below.

Fourth, SSA explicitly recognized the importance of social workers, case managers, and outreach workers in providing evidence of impairments, especially for homeless people. Community service providers can be a crucial source of evidence in evaluating how mental illness impacts an applicant’s ability to function. SSA will consider such evidence even if an applicant has not had an ongoing relationship or is not currently receiving treatment from the particular community service provider.

These changes will take effect January 17, 2017 and reflect many years of planning and dialogue between SSA and stakeholders. SSA hopes to streamline the application process for Social Security and disability benefits. Meanwhile, new lawyers can familiarize themselves with the changes and prepare to help the increasing number of individuals who will seek legal assistance in coming years.

***Elder Abuse***

Studies show that elder abuse is a serious problem that an aging population will, sadly, exacerbate. As many as one in every seven Americans over age 60 has experienced some elder abuse and cases of elder abuse are widely believed to be underreported.<sup>9</sup> The National Center of Elder Abuse estimates that only one in 14 cases is reported, and that number may be as low as one in every 23 cases.<sup>10</sup>

Fear of retaliation, loss of independence, shame, and a general lack of understanding are only a few of the reasons why elderly victims fail to report abuse.<sup>11</sup> Elder abuse victims often experience depression, anxiety, and other mental health issues, and studies show even low levels of or infrequent mistreatment can increase risk of death by up to 300%.<sup>12</sup>

The California Legislature has created special protections for the elderly. The legislature recognized that seniors may be confused, on various medications, mentally or physically impaired, or incompetent, and



therefore less able to protect themselves, understand or report criminal conduct, or testify in court on their own behalf.<sup>13</sup> The legislature established broad definitions<sup>14</sup> and set steep penalties.<sup>15</sup>

Elder abuse is defined as “physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment that causes physical harm, pain, or mental suffering.”<sup>16</sup> A care custodian may be found to have caused elder abuse by failing to provide goods or services that are necessary to avoid physical harm or mental suffering.<sup>17</sup> The penalties for elder abuse can include imprisonment up to four years<sup>18</sup> and, if the victim was over age 70 and dies due to the abuse, an additional seven years.<sup>19</sup>

California’s approach to elder abuse is both broad and sweeping. Numerous factual circumstances can give rise to elder abuse claims, including health services, social services, financial services, housing, and family relations. Nearly every aspect of a senior’s daily life can result in a potential claim. This means there is increasing demand for representation by both plaintiffs and defendants. Cases are often highly fact-intensive and emotionally charged and helping an elder-abuse victim or defending against an unjustified claim is possibly among the most fulfilling experiences in the legal profession.

#### **New Technology**

The disruptive power of new technology is undeniable. Technological advances dominate virtually all aspects of daily life and impact every segment of business and industry. From social media<sup>20</sup> to artificial intelligence, blockchain databases and 3-D printers, technology has changed how people interact with each other and with the surrounding world. For years to come, new and evolving technologies will continue to drive societal changes.

New lawyers find themselves in a unique position, better suited than any other generation to update the law to address never-seen-before issues created by new technologies. While there are myriad examples, self-driving, or so-called “autonomous,” vehicles are a prime illustration of technology’s disruptive power and the inadequacy of current law to address the consequences of their use.

#### **Autonomous Vehicles**

In October, Tesla announced that all new vehicles will have the hardware necessary for “full self-driving capability at a safety level greater than that of a human driver.”<sup>21</sup> Tesla is not alone as 33 corporations are currently developing autonomous vehicles, including traditional carmakers like Audi and Volvo and technology companies like Google and Uber.<sup>22</sup>

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Tesla is unique because it is not just testing autonomous vehicles. Rather, Tesla already has cars on the road, in the hands of consumers, capable of driving in autopilot mode without human input. Moreover, the first U.S. fatality involving an autonomous vehicle occurred in June in Florida when a Tesla Model S operating in autopilot mode collided with a tractor-trailer.<sup>23</sup> This accident brought several issues to the forefront of the autonomous vehicle debate. Due to an absence of legislation, many questions still remain, such as determining liability and standards of care, and establishing a coherent national policy.

In a 2013 article, “The Reasonable Self-Driving Car,” Professor Bryant Walker Smith asks, “what is reasonably safe...[and] How safe is safe enough?”<sup>24</sup> Smith explains that this question has several possible answers, each perhaps a bit unsatisfying. First, by requiring self-driving cars to perform better than human drivers on average, there will be some accidents that a human driver could have avoided. Second, requiring self-driving cars to perform at least as well as a perfect human driver for each specific maneuver would prevent use of technologies that, while not perfect, could still improve overall road safety. Or third, requiring self-driving cars to perform as well as corresponding human-vehicle systems would require human oversight that may be impractical or undependable.<sup>25</sup>

To determine liability in the context of tort law, should we adopt a negligence standard, strict liability, or some other standard? Negligence emphasizes process (e.g., how did the carmaker develop the vehicle), while strict liability focuses on the product itself (e.g., how did the vehicle perform).<sup>26</sup> Neither approach is perfect. For example, a reasonably safe process could produce an unsafe product. Nonetheless, as “sporadic failures of automated vehicles inevitably occur, negligence claims, punitive damages awards, and determinations of foreseeability may all depend in part on the reasonableness of a defendant manufacturer’s prior process-based safety arguments.”<sup>27</sup>

Meanwhile, an administrative law approach could target outputs by imposing specific requirements on the vehicle itself.<sup>28</sup> For example, safety could be determined by requiring a vehicle to decelerate from 60 mph to a standstill in a prescribed distance, or sense movement under specific conditions. Ultimately, the approach state legislatures take could determine both the cost and rate

at which both innovation and wide-scale adoption take place. Regardless, the absence of any clear legislative plan could be the most detrimental of all.

A number of states are responding to autonomous vehicle development by enacting legislation. In 2011, Nevada became the first to authorize autonomous vehicles. California, Florida, Louisiana, Michigan, North Dakota, Tennessee, Utah, and the District of Columbia have since passed legislation, as well.<sup>29</sup>

The federal government, too, has moved to fill the legal vacuum. In September, the U.S. Department of Transportation published its Federal Automated Vehicle Policy to help “facilitate the responsible introduction of automated vehicles to make transportation safer, cleaner, more accessible, and more efficient.”<sup>30</sup> The policy has four sections: vehicle performance, model state policy, current regulatory tools, and new tools and authorities.<sup>31</sup>

The vehicle performance guidance provides manufacturers, developers, and other organizations with a safety assessment framework for safe design, development, testing, and deployment and requires automakers to complete a safety assessment before cars are certified for use on public roads.<sup>32</sup> The model state policy distinguishes between federal and state responsibilities and provides policy recommendations for states to ensure a cohesive

national framework.<sup>33</sup>

Current regulatory tools give the National Highway Traffic Safety Administration (NHTSA) the means to aid in safe development of automated vehicles, including interpreting existing rules to provide sufficient flexibility and testing.<sup>34</sup> Lastly, new tools and authorities are included that the NHTSA can consider in the future.<sup>35</sup>

Transportation Secretary Anthony Foxx has said, “As the digital era increasingly reaches deeper into transportation, our task at the U.S. Department of Transportation is not only to keep pace, but to ensure public safety while establishing a strong foundation such that the rules of the road can be known, understood and responded to by industry and the public.”<sup>36</sup> Doing so will require partnership across industry and professions, and serves as a fascinating opportunity for new lawyers to practice in an area that will impact daily life far into the future. Similarly, outcomes of legislative processes will steer the direction of legal services, particularly in tort and insurance law.



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### E-Discovery

New technology is also changing the practice of law itself. Today, most information is stored digitally—a development that has complicated the process of pre-trial discovery. Electronically stored information (ESI) refers to any data stored in an electronic medium from which information may be taken directly or, if necessary, after translation into a reasonably usable form.<sup>37</sup> E-discovery refers to the procedure by which litigants preserve, collect, review, and exchange ESI.<sup>38</sup> Both federal and state rules of civil procedure provide a framework for e-discovery, as part of the overall discovery process.

New lawyers, especially those interested in litigation, should become familiar with these frameworks, as most lawsuits will include at least some and potentially extensive e-discovery. In addition, e-discovery has grown into an industry in-and-of itself, with tech-savvy professionals trained to handle the process for law firms and business.

The duty to preserve information begins when litigation is reasonably foreseeable.<sup>39</sup> The “mere existence of a potential claim or the distant possibility of litigation” does not trigger a duty to preserve, but rather whether a reasonable party in the same factual circumstances would have reasonably foreseen that litigation was imminent.<sup>40</sup> At that time, the party must suspend any routine document retention (or destruction) policies, with the failure to do so resulting in spoliation sanctions. Any ESI that has discoverable evidence that is relevant to the claims, or defenses related to the anticipated litigation, falls within this duty to preserve.<sup>41</sup>

A key development in e-discovery is technology assisted review (TAR), a process for prioritizing and coding a collection of documents using a computer system that harnesses human judgments on a sample set and applies it to the remaining document collection.<sup>42</sup> In other words, TAR uses algorithmic codes to evaluate large document sets to determine relevance for discovery. While TAR is relatively new, it has quickly become widely accepted as a way to increase efficiency while minimizing the costs of e-discovery.<sup>43</sup>

Mankind has produced more data in the last two years than in the entire prior history of the human race. Estimates suggest that by 2020 each human being on the planet will produce an average 1.7 megabytes of data per second.<sup>44</sup>

As technology becomes more sophisticated and more information than ever before is created, it is imperative that discovery practices keep pace. New data formats and storage methods will require new e-discovery tools, while newly-minted lawyers will play a critical role in helping the legal profession keep pace with continually developing technologies.

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## Challenges and Opportunities

Aging populations and new technologies provide lawyers new to the profession with numerous opportunities to find their niche. While there is no single definitive guide to career development, by being curious and diligent, new opportunities will present themselves.

With extensive preparation, and a little accompanying good luck, new lawyers can take advantage of these evolutions to establish a place in the legal community, and do what countless generations have done before—serve clients, contribute to the development of law and society, and leave a lasting, valuable, and productive model for the future. 

<sup>1</sup> *Tilton v. Missouri Pacific Railroad*, 376 U.S. 169, 180 (1964).

<sup>2</sup> U.S. Department of Health and Human Services, Administration for Community Living, Aging Statistics (May. 25, 2016), available at [http://www.aoa.acl.gov/aging\\_statistics/index.aspx](http://www.aoa.acl.gov/aging_statistics/index.aspx).

<sup>3</sup> Tafoya and Johnson, Graying in the Golden State: Demographic and Economic Trends of Older Americans (Nov. 2000), available at [http://www.ppic.org/content/pubs/cacounts/CC\\_1100HJCC.pdf](http://www.ppic.org/content/pubs/cacounts/CC_1100HJCC.pdf).

<sup>4</sup> Mather et al., Population Reference Bureau, Population Bulletin (Dec. 2015), available at <http://www.prb.org/pdf16/aging-us-population-bulletin.pdf>.

<sup>5</sup> Hinkle, Mark, Social Security Administration, Press Release (Sep. 23, 2016), available at <https://www.ssa.gov/news/#/post/9-2016-1>.

<sup>6</sup> Social Security Administration Revised Medical Criteria for Evaluating Mental Disorders, 20 C.F.R. 404-416 (Sep. 26, 2016).

<sup>7</sup> Walker, Doug, Social Security Administration, Mental Disorders Rule Update (Sep. 23, 2016), available at <http://blog.ssa.gov/mental-disorders-rule-update/>.

<sup>8</sup> Substance Abuse and Mental Health Services Administration, SSI/SSDI Outreach, Access and Recovery Center, (Oct. 3, 2016), available at SSA Revises Criteria for Evaluating Mental Health Conditions, <https://soarworks.prainc.com/article/ssa-revises-mental-health-listings>.

<sup>9</sup> State Bar of California, Elder Abuse Pamphlet (2010) available at <http://www.calbar.ca.gov/Public/Pamphlets/ElderAbuse.aspx#1>.

<sup>10</sup> National Council on Aging, Elder Abuse Facts, available at <https://www.ncoa.org/public-policy-action/elder-justice/elder-abuse-facts/>; Walton law, A.P.C., Why Does Elder Abuse Go Unreported? (Jun. 6, 2013) available at <http://www.californiaelderabuselawyer-blog.com/2013/06/why-does-elder-abuse-go-unrepro.html>

<sup>11</sup> National Council on Aging, Elder Abuse Facts, available at <https://www.ncoa.org/public-policy-action/elder-justice/elder-abuse-facts/>

<sup>12</sup> National Council on Aging, Elder Abuse Facts, available at <https://www.ncoa.org/public-policy-action/elder-justice/elder-abuse-facts/>

<sup>13</sup> Cal. Penal Code §368.

<sup>14</sup> Cal. Welf. & Inst. Code §15610.07.

<sup>15</sup> Cal. Penal Code §368.

<sup>16</sup> Cal. Welf. & Inst. Code §15610.07(a)(1).

<sup>17</sup> Cal. Welf. & Inst. Code, §15610.07(a)(2).

<sup>18</sup> Cal. Penal Code §368(b)(1).

<sup>19</sup> Cal. Penal Code §368 (b)(3)(B).

<sup>20</sup> The writing of this very article began with brainstorm discussions crowdsourced on social media. Many thanks to the individuals who provided ideas, suggestions, and advice!

<sup>21</sup> The Tesla Team, All Tesla Cars Being Produced Now Have Full Self-Driving Hardware (Oct. 19, 2016), available at <https://www.tesla.com/blog/all-tesla-cars-being-produced-now-have-full-self-driving-hardware>.

<sup>22</sup> CB Insights, 33 Corporations Working on Autonomous Vehicles (Aug. 11, 2016), available at <https://www.cbinsights.com/blog/autonomous-driverless-vehicles-corporations-list/>.

<sup>23</sup> Vlasic and Boudette, NY Times, Self-Driving Tesla Was Involved in Fatal Crash, U.S. Says (Jun. 30, 2016), available at [http://www.nytimes.com/2016/07/01/business/self-driving-tesla-fatal-crash-investigation.html?\\_r=0](http://www.nytimes.com/2016/07/01/business/self-driving-tesla-fatal-crash-investigation.html?_r=0).

<sup>24</sup> Smith, Bryant Walker, The Center for Internet and Society, The Reasonable Self-Driving Car (Oct. 3, 2013), available at <http://cyberlaw.stanford.edu/blog/2013/10/reasonable-self-driving-car>.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> National Conference of State Legislatures, Autonomous | Self-Driving Vehicles Legislation (Oct. 25, 2016), available at <http://www.ncsl.org/research/transportation/autonomous-vehicles-legislation.aspx>.

<sup>30</sup> The White House, Office of the Press Secretary, FACT SHEET: Encouraging the Safe and Responsible Deployment of Automated Vehicles (Sep. 15, 2016), available at <https://www.whitehouse.gov/the-press-office/2016/09/19/fact-sheet-encouraging-safe-and-responsible-deployment-automated>.

<sup>31</sup> Department of Transportation, Federal Automated Vehicles Policy (Sep. 2016), available at <https://www.transportation.gov/AV/federal-automated-vehicles-policy-september-2016>.

<sup>32</sup> The White House, Office of the Press Secretary, FACT SHEET: Encouraging the Safe and Responsible Deployment of Automated Vehicles (Sep. 15, 2016), available at <https://www.whitehouse.gov/the-press-office/2016/09/19/fact-sheet-encouraging-safe-and-responsible-deployment-automated>.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Hill, Chris, USDOT releases Federal Automated Vehicles Policy guidelines for autonomous vehicles (Sep. 20, 2016), available at <http://www.equipmentworld.com/usdot-releases-federal-automated-vehicles-policy-guidelines-for-autonomous-vehicles>.

<sup>37</sup> FRCP 34(a)(1)(A).

<sup>38</sup> Exterro, The Basics of E-Discovery, available at <http://www.exterro.com/basics-of-e-discovery>.

<sup>39</sup> *Zubulake v. UBS Warburg LLC*, 220 F.R.D. 212, 218 (S.D.N.Y. 2003).

<sup>40</sup> *Micron Tech. Inc. v. Rambus Inc.*, 645 F.3d 1311, 1320 (Fed. Cir. 2011).

<sup>41</sup> *Zubulake v. UBS Warburg LLC*, 220 F.R.D. 212, 217 (S.D.N.Y. 2003).

<sup>42</sup> Maura R. Grossman and Gordon V. Cormack, The Grossman-Cormack Glossary of Technology-Assisted Review, 7 Fed. C. L. Rev. 1 (2013); see also, Paul Burns and Mindy Morton, Technology-Assisted Review: The Judicial Pioneers, The Sedona Conference Institute (2014), available at [http://www.americanbar.org/content/dam/aba/administrative/litigation/materials/2014\\_sac/2014\\_sac/technology\\_assisted\\_review\\_the\\_judicial\\_pioneers.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/litigation/materials/2014_sac/2014_sac/technology_assisted_review_the_judicial_pioneers.authcheckdam.pdf).

<sup>43</sup> Gricks and Ambrogio, A Brief History of Technology Assisted Review (Nov. 17, 2015), available at <http://www.lawtechnologytoday.org/2015/11/history-technology-assisted-review>.

<sup>44</sup> Marr, Bernard, Big Data: 20 Mind-Boggling Facts Everyone Must Read (Sep. 30, 2015), available at <http://www.forbes.com/sites/bernardmarr/2015/09/30/big-data-20-mind-boggling-facts-everyone-must-read/#726e4c236c1d>.

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# Test No. 98

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1. The number of Americans age 65 and older will triple by the year 2060, to be over 150 million.  
☐ True ☐ False
2. The Social Security Administration's new rules regarding mental health evaluations will go into effect on January 17, 2017.  
☐ True ☐ False
3. An individual with a substance addiction disorder can qualify for social security benefits by demonstrating that the addiction is life threatening.  
☐ True ☐ False
4. Under the new SSA rules, the SSA will find that an individual that only has mild limitations in ability to concentrate and persist, but is severely limited in ability to maintain pace, has only mild limitations for the third area of function because there are only mild limitations for two of the three activities.  
☐ True ☐ False
5. If an applicant takes an IQ test to qualify for benefits under the new SSA rules and receives a full-scale score of 65, he or she will be approved.  
☐ True ☐ False
6. Although social workers, case managers, and outreach workers are incredible important in providing evidence of function impairments, they are not explicitly recognized by the new SSA rules.  
☐ True ☐ False
7. Only one in every 14 cases of elder abuse are reported due to fear of retaliation, loss of independence, shame, and general lack of understanding.  
☐ True ☐ False
8. Victims of elder abuse are more at risk of death as a result of depression, anxiety, and other mental health issues.  
☐ True ☐ False
9. The California Legislature has not yet created any special protections for elderly people.  
☐ True ☐ False
10. A caretaker who takes money from a patient, but does not cause any physical harm, pain, or mental suffering, has not committed elder abuse as defined by California Welfare and Institutions Code §15610.07.  
☐ True ☐ False
11. Only a select group of companies have the technological capacity and know-how to develop autonomous vehicles.  
☐ True ☐ False
12. The first fatality caused by an autonomous vehicle occurred in June 2016 when a Tesla collided with a tractor-trailer.  
☐ True ☐ False
13. Strict liability focuses on the process involved in making the product (e.g., how did the company plan and design the product).  
☐ True ☐ False
14. An administrative law approach to ensuring autonomous vehicles are reasonably safe would involve establishing specific requirements on the vehicle's performance, like deceleration from 60 to 0 mpg within a proscribed distance.  
☐ True ☐ False
15. Since 2011, every state has passed some sort of legislation addressing autonomous vehicles.  
☐ True ☐ False
16. The U.S. Department of Transportation published the Federal Automated Vehicle Policy to create a cohesive national framework and establish safety guidelines.  
☐ True ☐ False
17. E-Discovery refers to the procedure by which parties in litigation preserve, collect, review, and exchange electronically stored information.  
☐ True ☐ False
18. Once a lawsuit is filed, a company is under a duty to preserve information that is relevant to the claims or defenses relating to the litigation.  
☐ True ☐ False
19. Technology assisted review (TAR) is a tool used during e-discovery to determine the relevance of large sets of documents.  
☐ True ☐ False
20. Since the rise of the internet in the 1990s, data has been produced at a rate of 1.7 megabytes of data per second.  
☐ True ☐ False

## MCLE Answer Sheet No. 98

### INSTRUCTIONS:

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Mark your answers by checking the appropriate box. Each question only has one answer.

- |     |                               |                                |
|-----|-------------------------------|--------------------------------|
| 1.  | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 2.  | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 3.  | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 4.  | <input type="checkbox"/> True | <input type="checkbox"/> False |
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| 18. | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 19. | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 20. | <input type="checkbox"/> True | <input type="checkbox"/> False |



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This summer, the Valley Community Legal Foundation sponsored an online auction as part of its first “No Jacket Required Virtual Gala.” The following article profiles winning bidder Steven Gubner and his firm, Brutzkus Gubner Rozansky Seror Weber LLP. We thank them for their generous donation to the VCLF and their ongoing commitment to community service.

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# Giving Back: One Firm's Legacy of Serving the Community

By Michael D. White



*Photo by Ron Murray*



**I**N THE JEWISH FAITH, IT'S CALLED TZEDAKAH, THE moral obligation to give aid, assistance and money to those in need and one that Steven Gubner takes to heart.

"My father is a blue-collar guy who worked six days a week," says Gubner, partner at the law firm of Brutzkus Gubner Rozansky Seror Weber LLP. "When I was growing up, I saw him participate in giving back, whether it was buying somebody on the street a lunch or a dinner, or writing a check to help a charity. Large or small, the amount didn't matter; he always tried. My father wasn't among the top ten donors to be certain, but he always made sure he found something he could do to help."

One of the largest law firms in the San Fernando Valley, Woodland Hills-based Brutzkus Gubner's 25 attorneys handle multi-billion dollar insolvency, bankruptcy, intellectual property, labor and employment and litigation matters for Fortune 500 and other clients in the apparel and fashion, finance, entertainment, new media, and real estate industries.

Gubner was counsel of record in the U.S. Supreme Court 2014 chapter 7 bankruptcy case, *Law v. Siegel*. Brutzkus has a heralded reputation in the garment industry, and Rozansky is considered to be next in line. Seror is one of the most respected chapter 7 trustees in California, and Weber works closely with Gubner on insolvency matters.

Most recently, the firm was recognized as a "Best Law Firm" by *U.S. News & World Report* in the practice areas



of bankruptcy and commercial litigation, recognition that is based entirely on peer review, while earlier this year, eleven of the firm's attorneys were selected by *Thomson Reuters* as 2016 *Southern California Super Lawyers*.

As busy as the firm is, its lawyers and support staff alike devote considerable time and effort to community service and giving back. Gubner and his colleagues make

giving back a core value at the firm and support active involvement in dozens of community causes.

"The opportunity to serve the community helps younger associates," says Gubner, who has served for more than 18 years on the Board of Directors of United Cerebral Palsy. "I learned a long time ago to leave my bulldog lawyer hat at the door. I grew up seeing a lot of my colleagues and friends get divorced, have few friends, and have serious social problems because they couldn't turn off the aggressive nature that lawyers are sort of inbred with and taught to show as a sign of strength or ability." Brutzkus and others agree that it helps make better lawyers.

It's important for professionals, Gubner says, to have "multiple facets" to their personality. "It's not just about winning and losing...it's about understanding what motivates people to make certain decisions and certainly participating in a non-monetary result like a pro bono case or contributing to a good cause helps that."

For instance, the firm recently negotiated a multi-million dollar settlement on behalf of a local trustee and donated \$10,000 to the defendants' charity. In the Gospel Truth chapter 11 case, the firm donated all undistributed funds to United Cerebral Palsy.





In September, Brutzkus Gubner was lauded as the law firm with the largest level of participation in the Annual Justice Jog 5K Run/Walk in Century City for the second year in a row. Held in partnership with the Greater Los Angeles Association of Legal Administrators, the event raises funds to support the Court Appointed Special Advocates of Los Angeles (CASA), a non-profit organization that recruits, trains and manages court-appointed volunteers to assist foster children throughout the region. Apparel industry attorney Deborah Greaves serves on its Board of Directors.

Another event supported by the firm is the annual Food from the Bar campaign—one of the Los Angeles Food Bank's largest events that raises funds from members of the legal community, enough for almost two million meals for those in need. In May, a group of Brutzkus Gubner attorneys, families and friends joined dozens of other law firms at the group's annual Volunteer Day at its food bank in Vernon. The firm took the lead in sorting and packing almost 4.5 tons of bread items and helped contribute to a total of 7,300 meals for the community. The previous December, nearly 25 of the firm's lawyers and staff formed an assembly line to pack more than 3,760 food packages for distribution among Los Angeles County's needy schoolchildren and senior citizens.

One of the core elements in the firm's value system is pro bono legal work, with the firm taking on as many

The firm's attorneys and staff, says Gubner, have each "found something they can connect with" as individuals devote their time giving back to Providence Tarzana Medical Center, IBD Support Foundation, Fred Jordan Mission, and City of Hope, among others.

Partner Mark Brutzkus sits on the National Board of Trustees of National Jewish Health, the Board of deToledo High School, and is active in (and a former President of) the City of Hope's Apparel Industries Group.

Partner David Seror teams with his wife to hold toy drives and collect Halloween candy for bed-ridden children at Providence Tarzana Medical Center, with more hours invested in aiding the homeless at the Fred Jordan Mission in Los Angeles.

Citing his family's medical history and his father's psychiatric profession, partner Nick Rozansky joined IBDSF's Board of Directors and was honored at its 7<sup>th</sup> Annual Evening of Inspiration in 2014. Partner Corey Weber—a specialist in bankruptcy, business and commercial litigation—is serving a three-year term as a volunteer lawyer representative to the Ninth Circuit Judicial Conference, which is held "for the purpose of considering the business of the courts and advising means of improving the administration of justice within such circuit."



as five pro bono cases a year. Particularly active in pro bono work is partner Jeffrey Kobulnick, who left Big Law to join the firm in 2012, bringing extensive experience in the areas of copyright and trademark infringement, unfair competition, false advertising, and Internet-related intellectual property issues. He also brought along a heartfelt commitment to providing pro bono



legal assistance to “people who feel they have no other recourse.”

Kobulnick currently serves as a coordinator for Bet Tzedek Legal Services’ Holocaust Survivors Justice Network, which provides free, comprehensive legal assistance to Holocaust survivors seeking reparations from Germany for property expropriated during World War II. In 2009, his work was recognized with the national organization’s Elyse S. Kline Pro Bono Lawyer of the Year Award.

“I’m looking for more ways to do pro bono work,” says Kobulnick, who’s been involved in volunteer work since his days as a law student at the Franklin Pierce Law Center, and has been honored multiple times with the Wiley W. Manuel Award from the State of California for distinguished pro bono legal services.

Kobulnick has also coordinated attorney participation in Lawyers for Literacy, an annual event that benefits “Everybody Wins! Los Angeles,” a nonprofit literacy program helping children improve their reading skills and self-esteem. His work with that group earned him the Lynford Lardner Community Service Award in 2006.

In addition, Kobulnick has volunteered with a number of charitable organizations, most notably the Leukemia & Lymphoma Society (LLS), having founded and served twice as a captain of LLS Light the Night Walk teams to raise awareness and funds to cure blood cancer. In 2013, Kobulnick was a candidate for LLS’s Man of the Year for his work on a campaign that raised over \$575,000 for LLS research in just ten weeks.

What engenders the commitment of so many to do so much for those in need, from dispossessed and bed-ridden children to Holocaust survivors and at-risk teens? Over the years, Steve Gubner has made a point of taking his three children along with him to help at charitable functions the firm has been involved in, including building a house with Habitat for Humanity or taking a day to bring a sense of normalcy to the abused and neglected children and adolescents at Casa Pacifica.

Several years ago, Gubner was standing in line at Kohl’s Department Store with a cart full of clothes selected by one of the 100 at-risk youngsters participating in the Kohl’s for Kids program.

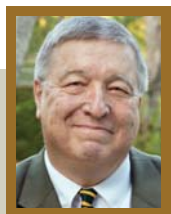


“We put up \$100 dollars for each kid, which Kohl’s matched,” he recalls. “In addition, they offered to cut the prices on everything in the store by 50 percent. The kids arrived on a bus, we met them, and then took them shopping. Kids being who they are, “the first thing they’d do is head for the ear buds, head phones and games, with their teachers steering them toward shoes and clothes and more practical stuff.”

With a cart filled with shoes, clothing and other more practical stuff for two youngsters, Gubner told the kids that they could go back to the fun stuff if there was any money left over after they checked-out.

“We were in line to check out and my son said ‘I’ll be right back.’ He went back to the headphone area, returned with a pair of headphones and said, ‘Dad, I want to buy these for these kids with my own money. I want it to be my gift to them.’”

Tzedakah...by example. 



**Michael D. White** is editor of *Valley Lawyer* magazine. He is the author of four published books and has worked in business journalism for more than 35 years. Before joining the staff of the SFVBA, he worked as Web Content Editor for the Los Angeles County Metropolitan Transportation Authority. He can be reached at [michael@sfvba.org](mailto:michael@sfvba.org).



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# CREATIVITY CONFLICT:

## Differing Protection in the United States & Europe

By Jasmine Aarabi



**I**N A PLEA FOR PERSONAL protection, actress Cindy Lee Garcia was denied any sort of relief by the U.S. Ninth Circuit Court of Appeals for a movie producer's distortion of her five-second performance in a film that sparked worldwide controversy and death threats.<sup>1</sup>

In *Garcia v. Google*, the court initially entered a mandatory injunction requiring Google to remove the film on the basis that Garcia had a "fairly debatable" copyright claim in her performance. Later, though, the judges revisited their initial ruling and reversed in an *en banc* decision.<sup>2</sup>

What is particularly troubling about Garcia's case is that she never signed a contract to transfer her rights to the movie producer. The producer

misled Garcia by casting her for a role in the film, which she was told would be an action-adventure thriller set in ancient Arabia and entitled *Desert Warrior*.<sup>3</sup> Even more troubling is that the actual film, renamed *Innocence of Muslims*, misrepresented Garcia's role by dubbing over her lines with a voice that asked, "Is your Mohammed a child molester?"<sup>4</sup>

Shortly after the film was uploaded to YouTube and translated into Arabic, numerous violent protests occurred across the Middle East, with some claiming a causative link between the release of the film and the 2012 attack on the American diplomatic compound in Benghazi, Libya.<sup>5</sup>

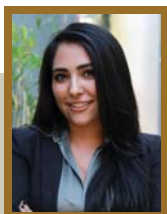
Unfortunately for Garcia, the Ninth Circuit noted that she would have had better prospects under European

copyright laws, where performers have the "moral right" to object to any distortion of their performances that would be prejudicial to their reputations.<sup>6</sup>

### Moral Rights vs. Economic Rights

The United States differs from many countries with respect to the basic philosophy of its copyright law. The United States dominates as the world's premier exporter of entertainment content, through its utilitarian philosophy, which grants rights to those who fuel its economy.<sup>7</sup>

As such, U.S. law affords copyright protection to writers, musicians, and actors who get paid in return for access to their products.<sup>8</sup> According to one definitive source, the financial incentives and statutory protection benefitted not



**Jasmine Aarabi** is a third year student at Loyola Law School, where she serves as an editor of the Entertainment Law Review. She can be reached at [aarabij@lls.edu](mailto:aarabij@lls.edu).



only artists, but American society as a whole.<sup>9</sup>

In contrast to the United States' exceptional philosophy, which limits exclusive copyright rights to the "economic rights" of authors, European copyright statutes protect the "moral rights," or the non-economic interests of authors, based on the view that an artist's work is an extension of his or her personality.<sup>10</sup> Moral rights refer to the spiritual, non-economic, and personal nature of an artist's work that plays an important role in the creative process so that the artist's spirit and personality is injected into the work.<sup>11</sup>

The two most common of these moral rights are attribution and integrity. The moral right of attribution refers to "the right to claim authorship of a work," whereas the moral right of integrity is "the right to object to modifications of one's work" that would be "prejudicial to his or her honor or reputation."<sup>12</sup>

Countries that apply moral rights, or "natural rights," focus on protecting the individual author, while Anglo-American countries lean toward protecting the owner of the copyright, whether that be the author, publisher, broadcaster, individual or corporation.<sup>13</sup>

### **Audiovisual Performers in the United States**

While the United States prefers to concentrate rights and economic benefits in the hands of corporate management, European countries integrate economic efficiency with the audiovisual performer's welfare, where such welfare should allow a performer to object to the producer's distortion of his or her performance.<sup>14</sup>

America's failure to adequately embrace the doctrine of moral rights has led many commentators to conclude that the scope of copyright protection for the personal rights of the country's artists is insufficient.<sup>15</sup>

Issues that may arise when determining copyright ownership in an

audiovisual performer's performance include whether the performer's contribution to a work qualifies as work-made-for-hire, and therefore denies the performer any copyright ownership/protection; and whether a performance not qualifying as a work-made-for-hire is an independent contribution to a work and thus provides copyright ownership/protection to the audiovisual performer under the Copyright Act's definition of "joint-authorship."<sup>16</sup>


Under the work-made-for-hire doctrine, an audiovisual performer (e.g., an actor) who makes contributions to an audiovisual work (such as a film) is considered the "employee" of the executive producer.<sup>17</sup> The producer's role is equated to that of an "employer," which entitles the producer to benefit from its "author" status under §101 of the Copyright Act. This provides the producer, not the performer, with exclusive rights to the audiovisual work.<sup>18</sup>

These issues are especially prevalent in the U.S. film industry since motion pictures are inherently collaborative types of work, and often qualify as works-made-for-hire, which thereby provides the hiring party, usually the producer/financier, copyright ownership over the collaborations.<sup>19</sup>

### **Moral Rights in American and International Copyright Laws**

In 1990, the only time the United States incorporated moral rights into its copyright laws was in 1990, when Congress amended the Copyright Act by adopting the Visual Artists Rights Act (VARA).<sup>20</sup> This amendment, however, has limitations in that it extends protection only to visual artists (e.g., printers and photographers) and thereby excludes audiovisual artists such as actors from protection.<sup>21</sup>

It has been argued that VARA's enactment reflects Congress's belief that protection of visual art "meets a



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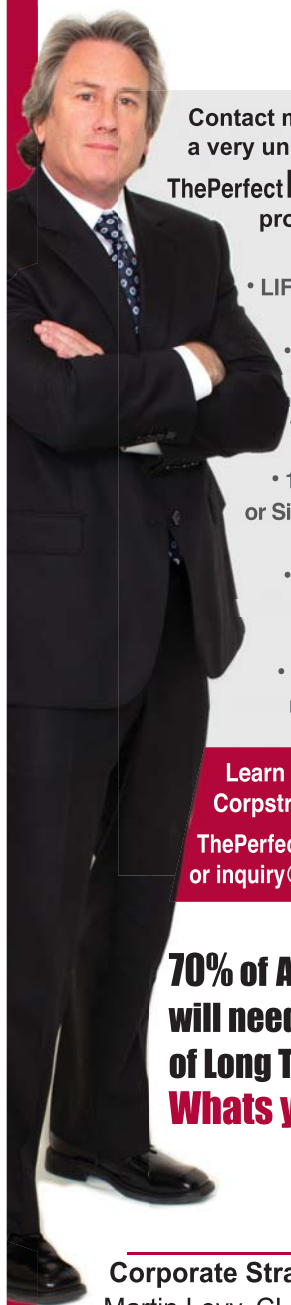
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special societal need, and its protection and preservation serve an important public interest,” but surprisingly, audiovisual art did not qualify as a “special societal need.”<sup>22</sup>

The World Intellectual Property Organization (WIPO), one of 17 specialized agencies within the United Nations, has advocated for audiovisual performers’ rights over their recordings as well as a share in the proceeds from their commercial exploitation through its philosophies of moral rights protection.<sup>23</sup>

Since 1996, however, the WIPO has encountered two main obstacles in trying to accomplish a treaty on audiovisual performances: the transfer of rights and the initial ownership of audiovisual performers’ rights.<sup>24</sup> As film industry lobbyists exerted intense economic pressure to exclude audiovisual performers from provisions that were already afforded to audio performers, EU member nations began taking steps to ensure that audiovisual performers received equal protection.

By implementing EU Directive 92/100/EEC (EU Directive), the 28-member nation bloc set forth several principles and rights of audiovisual performers: first, “The principal director of a cinematographic or audiovisual work shall be considered its author”; second, “Any illegal fixation of a performer’s live performances is an act of piracy”; third, “Audiovisual performers have the exclusive right to distribute, authorize or prohibit the broadcasting of their performances made via wireless means, and other communications to the public”; and fourth, “Audiovisual performers have the right to authorize or prohibit the rental and lending of the fixation of their performances.”<sup>25</sup>


On June 24, 2012, following the EU Directive, WIPO adopted the Beijing Treaty on Audiovisual Performances, which had been negotiated with the goal of protecting audiovisual performers.<sup>26</sup> Through more than a

decade of negotiations, the United States, India, and Mexico compromised with the EU regarding the transfer of rights from performers to producers.<sup>27</sup>

The talks resulted in Article 5(1)(ii) of the Beijing Treaty which provides protection to audiovisual performers by granting them the right “to object to any distortion, mutilation or other modification of their performances that would be prejudicial to their reputation, taking due account of the nature of audiovisual fixations,” where such rights will continue even after their death but until the expiration of their economic rights, under Article 5(2).<sup>28</sup>

## Should Audiovisual Performers Have Moral Rights?

According to Ninth Circuit Court Judge Alex Kozinski’s dissent in *Garcia v. Google*, the U.S. Copyright Office contradicted itself by denying Garcia copyright protection since it was a member of the U.S. delegation that signed the Beijing Treaty and was “intimately engaged” in negotiating provisions to protect rights of performers.<sup>29</sup> If the Treaty’s key provisions were inconsistent with U.S. copyright law, Judge Kozinski commented that it would be inconceivable that the Copyright Office not only signed the Treaty, but also praised it as “an important step forward in protecting the performances of television and film actors throughout the world.”<sup>30</sup>

Through exploring the contrasting philosophies of American and European Union copyright laws, as well as the Beijing Treaty,<sup>31</sup> it would serve the United States well to embody certain principles, such as moral rights, that are already afforded in European nations, and which would bring audiovisual performers to an equal standing with other performers. 

<sup>1</sup> *Garcia v. Google, Inc.*, 786 F.3d 733 (9th Cir. 2015).

<sup>2</sup> *Id.* (The court held that Garcia “failed to show that she was likely to succeed on the merits of a copyright infringement claim because she was not the author of the film, her performance was not copyrightable, she



disclaimed joint authorship of the film, and she never fixed her acting performance in a tangible medium, as required by 17 U.S.C.S. § 101.”)

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 737.

<sup>5</sup> David Brock, *The Benghazi Hoax*, Huffington Post, October 21, 2013.

<sup>6</sup> *Garcia v. Google, Inc.*, 786 F.3d 733, 746 (9th Cir. 2015).

<sup>7</sup> Adler Bernard, *The Proposed New WIPO Treaty for Increased Protection for Audiovisual Performers: Its Provisions and Its Domestic and International Implications*, 12 Fordham Intell. Prop. Media & Ent. L.J. 1089 (2002).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Cyrill, P. Rigamonti, *The Conceptual Transformation of Moral Rights*, 55 Am. J. Comp. L. 67, 67-8 (2007).

<sup>11</sup> *Mass. Museum of Contemporary Art Found., Inc. v. Buchel*, 593 F.3d 38, 49 (1st Cir. 2010).

<sup>12</sup> Susan P. Liemer, *How We Lost Our Moral Rights and the Door Closed on Non-Economic Values in Copyright*, 5 J. Marshall Rev. Intell. Prop. L. 1, 4 (2005).

<sup>13</sup> Peter Burger, *The Berne Convention: Its History and Its Key Role in the Future*, 3 J.L. & Tech. 1, 7 (1988).

<sup>14</sup> Guy Pessach, *The Beijing Treaty on Audiovisual Performances - The Return of the North?*, 55 IDEA 79, 85 (2014).

<sup>15</sup> Roberta Rosenthal Kwall, *Copyright and the Moral Right: Is an American Marriage Possible?*, 38 Vand. L. Rev. 1, 18 (1985); F. Jay Dougherty, *Not a Spike Lee Joint? Issues in the Authorship of Motion Pictures Under U.S. Copyright Law*, 49 UCLA L. Rev. 225, 228 (2001); Adler Bernard, *The Proposed New WIPO Treaty for Increased Protection for Audiovisual Performers: Its Provisions and Its Domestic and International Implications*, 12 Fordham Intell. Prop. Media & Ent. L.J. 1089 (2002).

<sup>16</sup> F. Jay Dougherty, *Not a Spike Lee Joint? Issues in the Authorship of Motion Pictures Under U.S. Copyright Law*, 49 UCLA L. Rev. 225, 228 (2001);

<sup>17</sup> U.S.C. § 101 (1976). 17 Adler Bernard, *The Proposed New WIPO Treaty for Increased Protection for Audiovisual Performers: Its Provisions and Its Domestic and International Implications*, 12 Fordham Intell. Prop. Media & Ent. L.J. 1089, 1100 (2002).

<sup>18</sup> *Id.*

<sup>19</sup> F. Jay Dougherty, *Not a Spike Lee Joint? Issues in the Authorship of Motion Pictures Under U.S. Copyright Law*, 49 UCLA L. Rev. 225, 228 (2001).

<sup>20</sup> 17 U.S. Code § 106A.

<sup>21</sup> Susan P. Liemer, *How We Lost Our Moral Rights and the Door Closed on Non-Economic Values in Copyright*, 5 J. Marshall Rev. Intell. Prop. L. 1, 3-4 (2005).

<sup>22</sup> *Mass. Museum of Contemporary Art Found., Inc. v. Buchel*, 593 F.3d 38, 49 (1st Cir. 2010).

<sup>23</sup> WIPO, *Performers' Rights – Background Brief*.

<sup>24</sup> Guy Pessach, *The Beijing Treaty on Audiovisual Performances - The Return of the North?*, 55 IDEA 79, 85 (2014).

<sup>25</sup> Adler Bernard, *The Proposed New WIPO Treaty for Increased Protection for Audiovisual Performers: Its Provisions and Its Domestic and International Implications*, 12 Fordham Intell. Prop. Media & Ent. L.J. 1089, 1097-8 (2002).

<sup>26</sup> 51 I.L.M. 1211 (2012).

<sup>27</sup> *Id.*

<sup>28</sup> WIPO, *Beijing Treaty on Audiovisual Performances*.

<sup>29</sup> *Garcia v. Google, Inc.*, 786 F.3d 733, 751 (9th Cir. 2015) (Kozinski, dissenting); U.S. Copyright Office, *Annual Report of the Register of Copyrights*, p. 16-17 (2012), available at [www.copyright.gov/reports/annual/2011/ar2011.pdf](http://www.copyright.gov/reports/annual/2011/ar2011.pdf).

<sup>30</sup> *Id.*

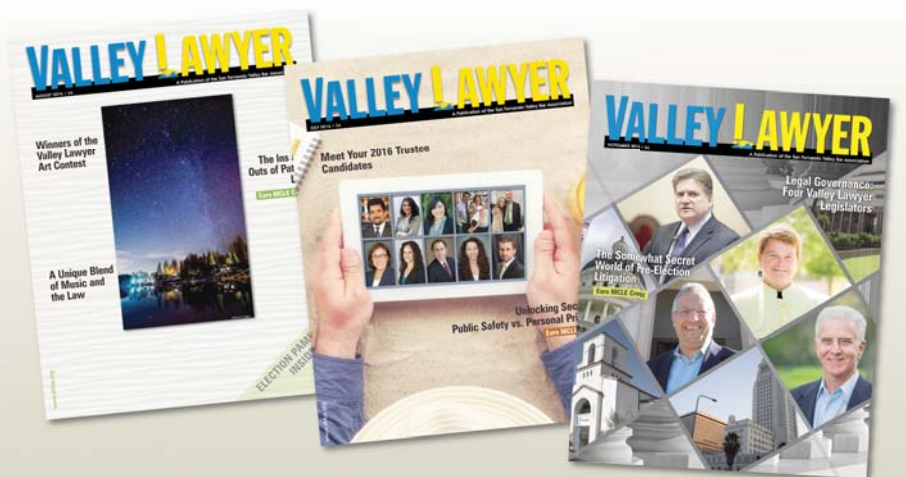
<sup>31</sup> WIPO, *Beijing Treaty on Audiovisual Performances*.

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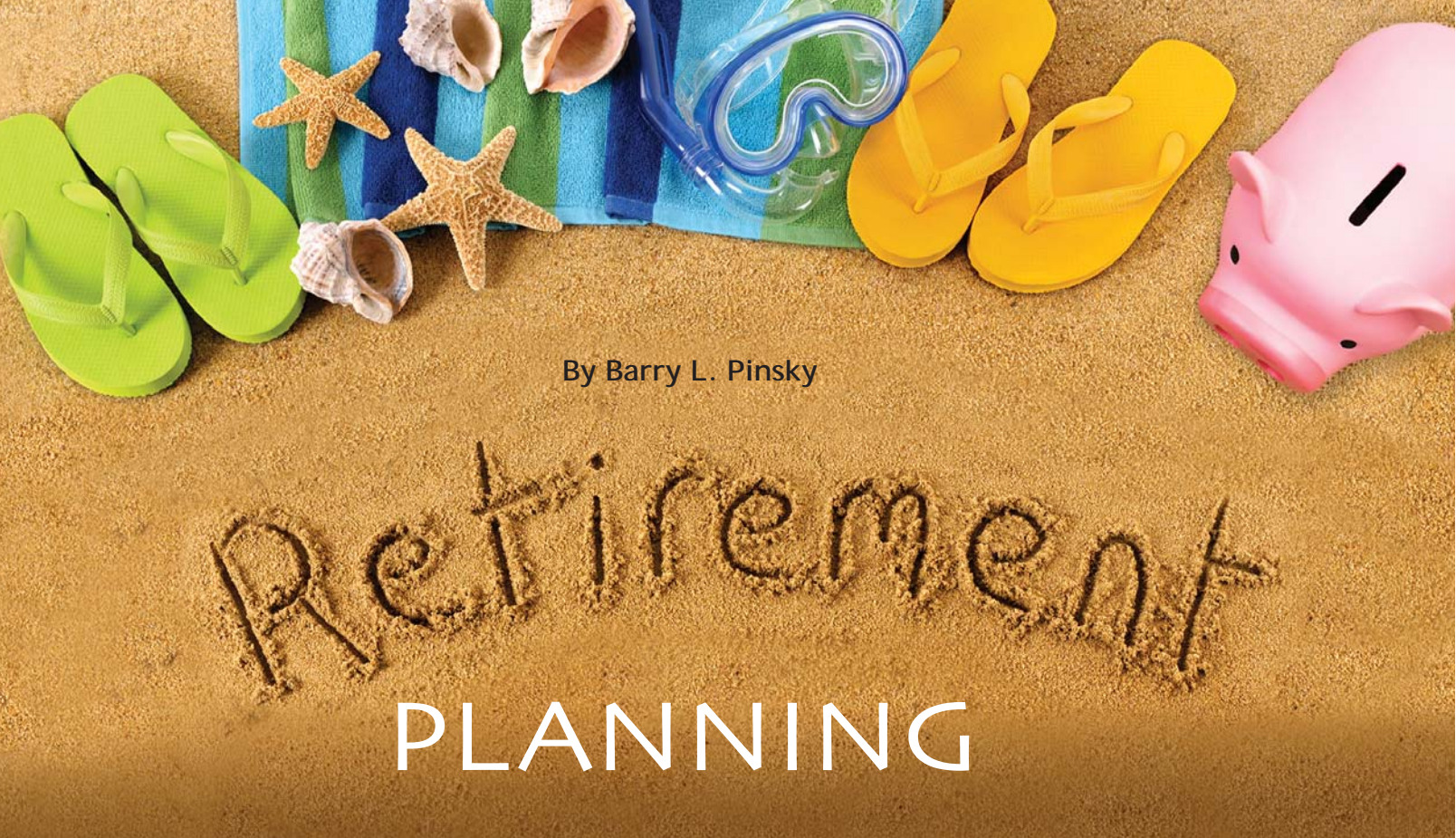


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By Barry L. Pinsky

# Retirement PLANNING

**A**TTORNEYS ARE TRAINED TO LOOK AHEAD, TO plan for the future; retirement planning is not foreign to law practices. However, due to the complexities inherent in our modern society, the details involved in the various plan options—401(k), profit sharing, defined benefit, safe harbor, SIMPLE—may often appear daunting. A bit of clarification and perspective might be helpful.

Many working adults in our grandparents' and parents' generations spent most of their working lives employed in one profession, or by one company. When they retired, they probably received a monthly pension from their long-time employer along with a Social Security check that kept them comfortably housed, fed, and provided with a bit of spare spending money for the balance of their lives.

By contrast, today's generations work for multiple employers over many careers, while Social Security faces never-ending political and financial challenges, causing uncertainty to future beneficiaries. Retirement planning is mostly an individual's responsibility.

Some financial and retirement planners estimate that Americans will require 70% or more of their pre-retirement income to sustain their lifestyles after they stop working.<sup>1</sup> For those not blessed with a retirement pension or substantial 401 (k) or IRA account—or the good fortune of a substantial inheritance, or a winning lottery ticket—the obligation for retirement planning cannot be transferred or avoided.

Fortunately, the federal government has defined a variety of savings and investing options to help facilitate the task of planning one's retirement. Perhaps the most common, and often a highly efficient path to helping build a retirement income stream, is through an employer's formal retirement plan.

For attorneys, the options for establishing and funding retirement plans are varied, and the optimal choices may differ from one firm to another, so it's important for employers and employees alike to understand the advantages and disadvantages which accompany each type of plan.



**Barry L. Pinsky** is a Financial Advisor and First Vice President with UBS Financial Services in Encino. A Certified Financial Planner, Chartered Financial Consultant and Chartered Life Underwriter, Pinsky is an Associate Member of the SFVBA. He can be reached at [barry.pinsky@ubs.com](mailto:barry.pinsky@ubs.com).



## **Tax Advantages**

Business retirement plans afford a number of distinct tax advantages. Contributions made by an employer to accounts benefiting employees are deductible from the employer's business income. Contributions made by employees—other than to Roth accounts, and up to certain limits—are also deductible from the employee's personal income for the year to which the contributions are attributed. Funds invested in retirement plans grow tax-deferred, until such time as withdrawals are made. Most commonly, withdrawals begin after retirement, at which time the account holder is usually in a lower tax bracket.

Most retirement plans offered through private employers are one of two types—defined contribution plans or defined benefit plans.<sup>2</sup> All formal business retirement plans, both defined contribution and defined benefit, are subject to ERISA, the Employee Retirement Income Security Act of 1974.

ERISA rules set standards for participant eligibility and inclusion, vesting schedules, benefit levels, and plan management in order to assure that employees derive appropriate value from the overall contributions by their employer to the retirement plan as a whole. While all plans are subject to ERISA regulations, contribution levels, reporting documentation, investment options, and plan management details differ among the various plan types, with each offering specific options and featuring specific requirements and limitations.

## **A Variety of Plans**

Many employer retirement plans offered at law firms are defined contribution plans.<sup>3</sup> The employee and/or the employer make contributions to investment accounts credited to each employee's benefit. At retirement, an employee receives the accumulated value of his and his employer's contributions, plus earnings on the investments purchased with those contributions. Various mandated employer contributions and/or actuarial tests assure that appropriate benefits accrue to the employees in an equitable manner.

One of the simplest types of plan commonly utilized by law practices is the Simplified Employee Pensions, or SEP plan.<sup>4</sup> The employer establishes accounts for each eligible employee and contributes a uniform percentage of pay to each account. The maximum, employer-only contribution level is 25% of pay up to \$53,000 for 2016.<sup>5</sup> No annual documentation is required by the IRS, while SEPs do not have the requirement to file form 5500, and SEP-IRA contributions are not included on an employee's W-2 form. Financial institutions

handling employees' SEP IRA accounts provide the IRS and employees with an annual statement indicating contributions and fair market value information on Form 5498. Any distributions are reported on form 1099-R.

A major advantage of SEP plans is that contribution levels are optional each year. A SEP plan may be especially attractive for a sole practitioner due to the ease of start-up and operation, the flexibility of contribution level from year to year, and the relatively high limits. However, in larger practices, the requirement to cover a significant number of employees may add unaffordable costs.

A SIMPLE (Savings Incentive Match Plan for Employees) plan may represent more manageable costs for a larger organization with up to 100 employees. A SIMPLE plan collects voluntary salary reduction contributions from employees (to \$12,500 in 2016, with an additional \$3,000 option for employees over age 50), along with employer matches (up to 3% match of compensation for contributing participants most years, or 2% of compensation for every eligible employee every year). Employee contributions are optional; employer contributions are mandatory as per plan. SIMPLE plans, like SEP's, do not require annual filing or testing. The ease of plan maintenance, along with the limitations of required employer contributions, may make a SIMPLE plan appealing. However, the lower level of permitted employee deferrals may be inadequate for some practitioners.

Another form of defined contribution plan which has been utilized by many law firms is the profit sharing plan (PSP).<sup>3</sup> A PSP requires annual filing of Form 5500, which is generally provided by a CPA or third-party plan administrator engaged by the plan sponsor. Major advantages of PSPs include high annual employer contribution limits (\$53,000 for 2016) and flexibility as annual employer contribution is discretionary.

Each plan must have a specific formula for allocation of employer contributions among all of the eligible employee participants if, in fact, employer contributions are made, often by percentage of total firm compensation, and a multiple-employee plan must be tested regularly by a qualified actuary to assure that benefits do not improperly accrue to highly compensated employees.

Profit sharing plans may be utilized in conjunction with another complementary type of plan, often with a 401(k) plan which then permits employee salary deferrals. However, if the employer plan is a combined profit sharing/401(k) plan, the annual contribution limit remains a total of \$53,000 for 2016.

The most popular form of a defined contribution plan, a 401(k) Plan, has become America's primary retirement savings vehicle. The IRS has estimated that over 50 million Americans participate in 401(k) plans through their employers, holding assets in excess of \$3 trillion.<sup>6</sup>

A 401(k) plan allows employees to defer a portion of salary pre-tax—or post-tax in optional Roth 401(k)s permitted by some employers—for investment in the individual's separate retirement account. Many 401(k) plans include an employer matching contribution up to a certain percentage of a participant's salary. Employee and employer contributions, along with accumulated earnings, are deferred from taxation in traditional 401(k) plans until distribution. Employees may defer up to \$18,000 in salary in 2016 (\$24,000 for individuals over age 50). As mentioned above, a 401(k) plan in combination with a PSP, may allow overall plan limits for employer and employee salary deferral as high as \$53,000 per employee participant in 2016.

### Complicated Rules and Regulations

For firms with a substantial number of employees, the 401(k) plan is a useful vehicle which can work well to benefit all members of a law practice. However, the regulations for establishing, maintaining, and testing 401(k) plans are complex. These rules are designed to help assure that all employee participants and their participating beneficiaries receive an appropriate portion of the retirement contributions made and that plans are not top-heavy, with the benefits flowing inordinately to a few senior executive participants.

For principals who have a desire to quickly accumulate the greatest benefit for employees in the shortest possible time, a defined benefit plan (DBP) may be of particular interest. Unlike defined contribution plans which specify the employer and employee contribution levels which are permitted and/or required, a DBP specifies the pension benefit which is promised to the employee at a future retirement date.

The value of accumulated savings from employee deferrals, employer contributions, and investment returns in a defined contribution plan (SEP, SIMPLE, profit sharing, or 401(k)) is unknown in advance, and depends upon contribution levels and investment performance. The accumulated value to the employees is ultimately at the risk of each individual participant. On the other hand, the pension payout from a defined benefit plan is specified in advance, based on plan documents and employment history, and the risk of performance is on the employer.


With a DBP, the sponsor guarantees a specific monthly pension benefit to employees based on a

specific formula. The calculations utilize factors relating to each participant's employment tenure, salary history, and age in order to determine appropriate pension levels. The plan is usually funded by employer contributions, with the sponsor accepting responsibility for making investment and management decisions, and assuming the risk of plan performance. In the case of a funding shortfall, the employer may be required to increase contributions. In the event of excess accumulation, funding may be cut back. Each plan is regularly reviewed and tested by an independent actuary to evaluate the adequacy of the plan funding levels and to verify that the plan complies with ERISA requirements. As with other retirement plan structures, a defined benefit plan is forbidden from assigning inappropriately excessive contributions to the benefit of highly compensated employees.

However, since it costs more to fund the pensions of more senior, more highly compensated members of a firm, defined benefit plans do generally require greater contribution levels for senior staff than might otherwise be permitted in many defined contribution plans. Therein lays the opportunity and the appeal of DBPs for some firms, as they often permit significantly higher funding levels than any other type of retirement plan, and the owners of the firm often realize the greatest percentage of ultimate retirement benefit.

As one would expect, defined benefit plans are the most complex and the most costly business retirement plans to establish and maintain. Before seriously contemplating the feasibility of a DBP, a careful evaluation of a firm's employee census and long-term goals should be undertaken.

ERISA regulations include provisions for a wide variety of additional business retirement plan options, including cash balance plans, employee stock option plans, and money purchase plans. However, in general, these options are less attractive or infeasible for most legal practices.

As retirement pensions become a thing of the past and Social Security benefits will only go so far, a knowledge of retirement plan options and careful planning and implementation are key to meeting future attainable financial goals. 

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<sup>1</sup> "Choosing a Retirement Solution," IRS Publication 3998 (12-2014), p. 1.

<sup>2</sup> Id. at 1.

<sup>3</sup> ABA Retirement Funds Website: [www.abaretirement.com](http://www.abaretirement.com). "ABA Retirement Funds Program Plan Design," ABA Retirement Funds 2015.

<sup>4</sup> American Bar Association Website: [www.americanbar.org/publications/gp\\_solo/2013/july\\_august/reallife\\_retirement\\_strategies\\_solos.html](http://www.americanbar.org/publications/gp_solo/2013/july_august/reallife_retirement_strategies_solos.html), "Real-Life Retirement Strategies for Solos," American Bar Association, Vol. 30, No. 4, 2013.

<sup>5</sup> Contribution limits for 2016 are taken from the IRS Website for Retirement Plans: [www.irs.gov/RetirementPlans](http://www.irs.gov/RetirementPlans).

<sup>6</sup> "Choosing a Retirement Solution," IRS Publication 2998 (12-2014), p. 4.



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## Supporting our Future Valley Legal Scholars

**O**VER THE PAST YEAR IN this column, we've seen several heartfelt stories of individuals who have confronted hardship and adversity with courage and determination and how those courageous people have benefitted from the generosity and commitment of remarkable service organizations like Court Appointed Special Advocates (CASA), Safe Passage, Haven Hills and the Boys and Girls Clubs—all of which are supported by the San Fernando valley Bar Association's Valley Community Legal Foundation (VCLF) and the generous donations of committed, community Valley residents.

What many people are not aware of is that in addition to supporting these and other worthwhile charitable organizations, the VCLF encourages and provides scholarships to qualified students pursuing a legal education like Myrna Velasquez. Ever since Myrna immigrated to the United States at the age of 13, her father taught her that school should be her number one priority. "Education has always been a big part of my life" said Myrna. "I always knew I wanted to be successful and I knew I would accomplish my goals by educating myself."

In high school, she realized that success at her studies would be the

key to becoming a strong, independent woman. Her resolve paid dividends, and after completing her undergraduate degree in political science, she earned a master's degree in public administration.

The subsequent years she spent working for an immigration attorney awakened the aspiration of becoming an attorney herself. Working with people of different backgrounds taught her that a career in the law would be more than



just a job—it would give her the tools to help bring struggling families together and help reunite estranged family members with their loved ones.

Having grown up in Latin America, Myrna knows all too well the trials

**LAURENCE N.  
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of poverty, the hardships of financial instability, and having to face the gut-wrenching choice between clothing, food, and education.

"I come from a humble family, a family that has been of great support to me," said Myrna. "My father is a construction worker, and even though [he never earned] a lot of money, he has always helped me financially as best as he could. My economic situation is tough, as law school is very expensive. And there are tremendous sacrifices that I have had to make in order to pay for classes. I take nothing for granted. My hard work scholastically has paid off, as I have been blessed to receive scholarships that have funded a portion of my legal education. I am eternally grateful!"

Myrna is now in her second year of law school. Looking back, she thanks God for giving her the knowledge to lead her life in the most positive way possible. Looking forward, she is thankful for the Valley Community Legal Foundation for their encouragement and support.

"Law school has made me a different woman—a woman with bigger dreams and hopes," said Myrna. Law school is by far one of the most difficult things that I have experienced. "It has taught me about stress, anxiety, and

### About the VCLF of the SFVBA

The Valley Community Legal Foundation is the charitable arm of the San Fernando Valley Bar Association. The Foundation's mission is to support the legal needs of the youth, victims of domestic violence, and veterans of the San Fernando Valley. The Foundation also provides educational grants to qualified students pursuing legal careers. The Foundation relies on donations to fund its work. To donate to the VCLF or to learn more, visit [www.thevclf.org](http://www.thevclf.org) and help us make a difference in our community.

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doubt. But I know that everything that I am going through is worth it because becoming an attorney is my greatest dream," she said.

"All of us who have received financial help from this great Bar Foundation are extremely lucky and humble to receive such help, as I am. I cannot wait to pass the Bar exam so that I can utilize my law license and begin to give back by helping the less fortunate people of the San Fernando Valley."

### VCLF AT WORK

Every year the VCLF is proud to offer financial scholarships to qualified and worthy students from the San Fernando Valley who are pursuing a legal education. We are all encouraged by the amazing people that we support like Myrna Velasquez. On behalf of the VCLF, I truly thank you for your continued support, and I wish you a healthy and joyous holiday season a most prosperous New Year! 🏠



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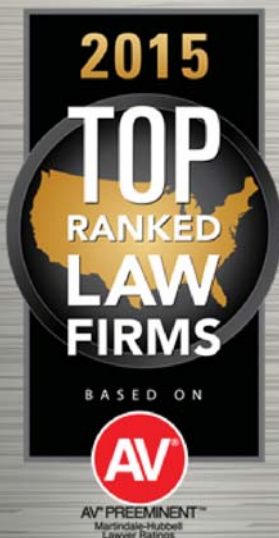
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