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A Publication of the San Fernando Valley Bar Association

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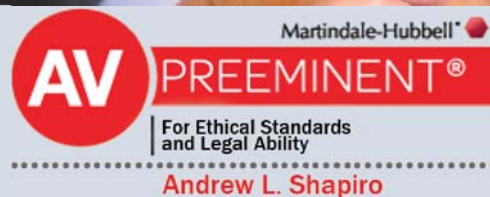
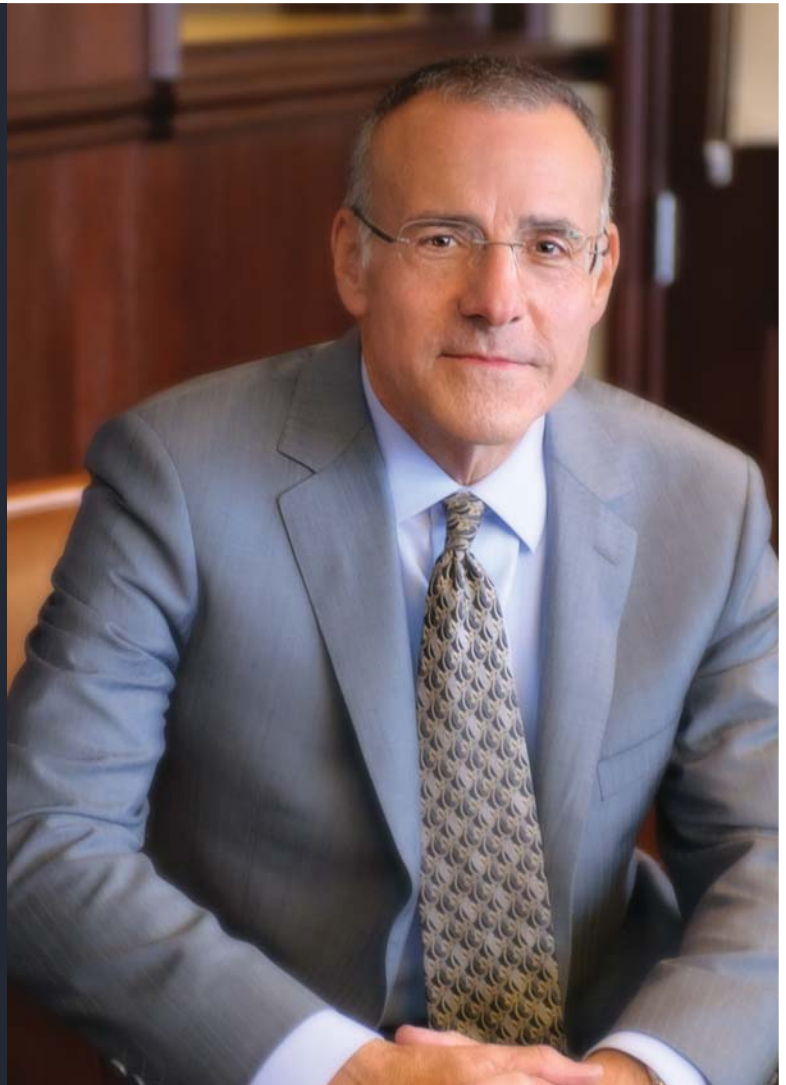
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*"Andy is an excellent lawyer with a firm understanding of not just the law, but the personal injury business. More importantly he is a wonderful person, who has the right temperament to be a fantastic mediator. Trial lawyers on both sides of the fence will benefit from Andy's mediation skills. It will only be a short time until the personal injury community will recognize his talents and he will join the ranks of elite mediators."*

**– Matthew B.F. Biren, Biren Law Group**

*"I have known Andy Shapiro for over 30 years. I had cases against him when I was practicing and have mediated and arbitrated cases with him in my more recent capacity as a Neutral Hearing Officer. Based on my experience with him, Andy has the skills and more importantly, the temperament, to be extremely effective in this endeavor. His many years of experience will serve him well, and I enthusiastically endorse and support his entry into the field."*

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- David L. Fleck, Esq.



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Valley Lawyer is published monthly. Articles, announcements, and advertisements are due by the first day of the month prior to the publication date. The articles in Valley Lawyer are written for general interest and are not meant to be relied upon as a substitute for independent research and independent verification of accuracy.

Printing Southwest Offset Printing

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### Climbing to the Top

**I**T IS MY HONOR TO SERVE THE San Fernando Valley Bar Association membership again this year and I invite you to provide me with your comments and ideas regarding your experience as a member now, and throughout this upcoming year via [president@sfvba.org](mailto:president@sfvba.org).

As a Board member for the past nine years, I have seen many issues addressed and significant changes take place. It is my goal to keep communications open and easy in order to make your Bar Association as user-friendly and valuable to our members as possible.

While on a backpacking journey with my family in Kings Canyon National Park this year, I realized that preparing for a backpacking adventure is very similar to serving on our Board. While preparing for a backpacking trip there are assignments that various individuals take on that are extremely important to successfully reaching the goal.

There is a collective decision with respect to the ultimate destination, and then there are the many components involved in how to get there, such as how much time do we have to get where we want to go? How many miles can be hiked or climbed per day? What's the safest route? Will we need a wilderness permit? Will we need a stove or fire permit? Will we need to leave a car at each end of the trail or arrange for transportation? What about the weather? What is the highest elevation we'll be reaching? Where are the water sources along the way? Will we require rain or water crossing gear? Ice climbing equipment? How much food and caloric intake will be necessary based upon our mileage plan? How much total weight will each hiker need to carry? There is also a

**KIRA S. MASTELLER**  
SFVBA President



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

trip budget prepared, and extensive time and research that goes into the purchase of new equipment, if needed, prior to taking untested materials on the trail.

The success of the trip, in other words, is based upon the completeness of our team prep work. Our Board works in the same way. We have an Executive Committee and Board of Trustees—collectively 20 active members of the Bar, plus three management staff—that meet monthly to review the progress of existing projects and define new goals and projects. From there, committees—and possibly sub-committees—are formed to drill down into the details of how those goals can be reached or projects successfully completed.

Our Bar management team—Executive Director Liz Post, Director of Public Services Rosie Soto-Cohen and Director of Education & Events Linda Temkin, along with our wonderful support staff—work with the Board, committees and sections to identify budget issues; provide resource information and cost comparison models; and compile historical or policy information to ensure compliance with our bylaws, as well as any information that will aid in the success of the proposed or ongoing project in the most cost-effective manner.

Our management has to adapt each year to a new Board, new committee and section leaders, and new ideas. I am continually impressed with the way our staff eases into changing responsibilities with enthusiasm and a willingness to get the job done.

Similarly, there isn't a single leader on the backpacking journey. Each member of the group has their 'time to shine' based on personal knowledge and experience. It may be that one person

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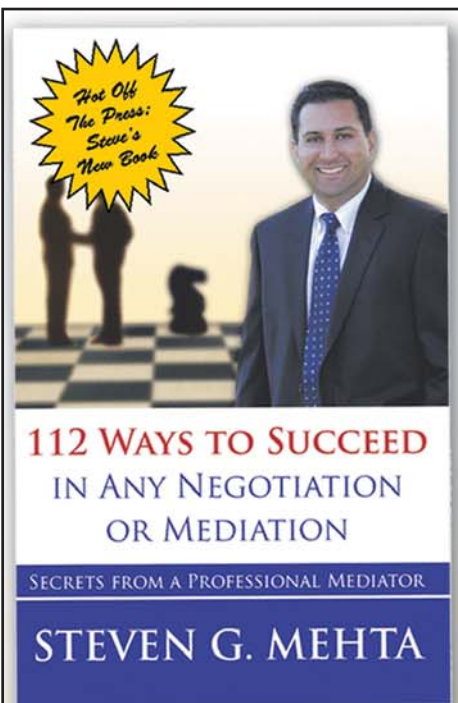
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knows that the snake on the trail is not poisonous, another can identify edible berries, while another may be an expert at tying the knots needed for a safe water crossing, or set a pace and keep everyone at that pace for hours. Each member gets an opportunity at some point to lead along the way.

Our Bar Board is also made up of individuals of many talents, as are our committees and sections. Open to the general membership, they serve as a great place for members to share their leadership skills one experience at a time. Successful projects are always the result of the efforts of many. Whether it's an idea or the implementation or fine tuning of that steps to be taken toward that idea, there are places for members to shine with their contribution.


At this time, the Bar maintains 12 active committees: Attorney Referral Service, Bench-Bar, Blanket the Homeless, Budget and Finance, Conference of Delegates, Inclusion & Diversity, Editorial, Mandatory Fee Arbitration, Membership & Marketing (Social Media, Communications, Valley Bar Network), Technology, Programs, and Sponsorship.

Our Sections consist of Bankruptcy Law, Business Law & Real Property, Criminal Law, Employment Law, Family Law, I.P., Entertainment & Internet Law, Litigation, New Lawyers, Probate

& Estate Planning, Small Firm & Solo Practitioner, Taxation Law, and Workers' Compensation.

The fund raising and charitable arm of the SFVBA, the Valley Legal Community Foundation (VCLF), is administered under a separate Board of Directors and provides members with opportunities to get involved in giving back to the community by providing grants, scholarships, and other charitable assistance. The Valley Bar Mediation Center (VBMC), the new nonprofit organization founded by SFVBA leaders, educates the public about the benefits of mediation and increases access to justice by offering professional mediators to help individuals, businesses and organizations resolve disputes. The VCLF and VBMC can be found at [www.thevclf.org](http://www.thevclf.org) and [www.valleybarmediationcenter.com](http://www.valleybarmediationcenter.com), respectively.


Please reach out to Liz Post, Rosie Soto-Cohen or Linda Temkin with any questions you may have regarding our Bar committees and sections, and you are always welcome to email me or any other Board member with your inquiries or suggestions.

Lastly, please take a few minutes to review the SFVBA website and give us your feedback. We want to know what works well for you and what you would like to see improved. 

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## A Worthy Foundation

**MICHAEL D. WHITE**  
SFVBA Editor



michael@sfvba.org

**I**T'S PRETTY MUCH A GIVEN THAT ANYTHING—a building, a country, a company, a marriage—built on a solid foundation will last and persevere. The same holds true for an association of like-minded people that, though members may come and go and demographics morph over time, remains committed to its founding charter and consistently serves its members and its community with energy and vision.

When the San Fernando Valley Bar Association was founded in 1926, the 200-square mile Valley was home to only about 55,000 people. Typically subdivided for small farms, most residents had been lured there over the preceding decades by promises of cheap land and engaged in agriculture, growing everything from lettuce and oranges to wheat and olives.

As the Valley began to boom, access to legal services continued to be a matter of hit-and-miss, with about 30 attorneys handling court cases, most of which had to be adjudicated at the Hall of Justice, 29 miles away in downtown Los Angeles. With six officers—including USC Law School grad and Bar Vice President Oda Hunt Falcouner—at the helm, the Bar successfully lobbied for the construction of a courthouse in the Valley to house a branch of the Municipal Court. It was the one of the initial steps taken by the Bar's visionary leadership in helping establish a presence in the Valley that could meet the legal needs of its growing, and increasingly diverse, population.


Over the years, through depression, war, civil unrest, economic boom times, and, yes, even disco, the Bar has

flourished in size and influence to its present position as one of the preeminent bar associations in California. Flourished, then and now, that is, on a foundation laid by the likes of Mrs. Falcouner, her far-seeing cohorts, and their successors that serve as the Bar's officers, trustees, committee members and section members.

In this month's issue of *Valley Lawyer*, we've taken the opportunity to profile each of the Valley law firms and others that form the Bar's President's Circle, made up of member firms that have established themselves in the community as leaders in their respective area of legal specialty. They play a prominent role in 'raising the Bar' and its reputation for community service and professional integrity and deserve due recognition.

Anyone out there with a client who's thinking of buying, for example, a Denny's, Rent-A-Wreck, or—believe it or not—a Men in Kilts Window Cleaning franchise should take some time to read Barry Kurtz's piece on purchasing a franchise.

Due diligence, advises Kurtz, "is vital with both you and your client learning everything possible about the franchisor and the franchise. Your clients should talk to every current and former franchisee that they can find as one of the most important signs of a healthy franchise system is a high level of satisfaction among current franchisees."

Good advice to undergird virtually any professional or business transaction. 



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<b>LATINO HERITAGE MONTH (SEPTEMBER 15 – OCTOBER 15)</b>						<b>1</b>
<b>2</b>	<b>3</b>	<b>4</b> <b>Valley Lawyer Member Bulletin</b> Deadline to submit announcements to <a href="mailto:editor@sfvba.org">editor@sfvba.org</a> for November issue.	<b>5</b>	<b>6</b> <b>Membership &amp; Marketing Committee</b> <b>6:00 PM</b> <b>SFVBA OFFICE</b>	<b>7</b>	<b>8</b>
<b>9</b>	<b>10</b>  <b>5:30 PM</b> <b>CHABLIS RESTAURANT</b> <b>TARZANA</b> VBN is dedicated to offering organized, high quality networking for SFVBA members.	<b>11</b> <b>Probate &amp; Estate Planning Section</b> Property Tax Issues for the Estate Planner <b>12:00 NOON</b> <b>MONTEREY AT ENCINO RESTAURANT</b> Gregory R. Broege reviews the key tax issues. (1 MCLE Hour)	<b>12</b>	<b>13</b> <b>Inclusion &amp; Diversity Committee</b> Networking Mixer <b>6:00 PM</b> <b>THE GATE ENCINO</b> See page 37	<b>14</b> Cyber Security Liability <b>12:00 NOON</b> <b>SFVBA OFFICE</b> Sponsored by  Wes Hampton will discuss the threat of getting hacked and how you can best protect yourself and the firm. (1 MCLE Hour)	<b>15</b>
<b>16</b>	<b>17</b>	<b>18</b> <b>Taxation Law Section</b> Tax Planning with Private Foundations <b>12:00 NOON</b> <b>SFVBA OFFICE</b> Marguerite Griffin of Northern Trust Bank will present a primer on private foundations. What are the benefits and challenges of creating a private foundation as part of an estate plan? She will also discuss the tax and legal rules regarding maintenance and operation of private foundations. (1 MCLE Hour)	<b>19</b> <b>Workers' Compensation Section</b> <b>12:00 NOON</b> <b>MONTEREY AT ENCINO RESTAURANT</b>	<b>20</b>	<b>21</b> Planning for Sole Practitioners <b>12:00 NOON</b> <b>SFVBA OFFICE</b> Sponsored by  Learn best practices for running a successful solo practice. Free to all current members. (1 MCLE Hour)	<b>22</b>
<b>23</b>	<b>24</b> <b>Family Law Section</b> Competency Issues for Family Law Practitioners <b>5:30 PM</b> <b>MONTEREY AT ENCINO RESTAURANT</b> Greg Dorst of The Other Bar will discuss substance abuse and the special stresses on family law attorneys. Approved for Family Law Legal Specialization. (1 MCLE Hour Competency Issues; .5 General)	<b>25</b>	<b>26</b> <b>Litigation Section</b> Hot Topics with the Insurance Experts <b>12:00 NOON</b> <b>SFVBA OFFICE</b> Andrew Zehnder, Sandra Hunt and Robert Corenson discuss hot litigation issues and corporate compliance. (1 MCLE Hour)	<b>27</b>	<b>28</b>	<b>29</b>
<b>30</b>	<b>31</b> 					

SUN	MON	TUE	WED	THU	FRI	SAT
		<b>Valley Lawyer Member Bulletin</b> Deadline to submit announcements to editor@sfvba.org for December issue.		<b>Membership &amp; Marketing Committee</b> <b>6:00 PM</b> <b>SFVBA OFFICE</b>		
6	<b>7</b>  <b>5:30 PM</b> <b>KAHN RESIDENCE</b> VBN is dedicated to offering organized, high quality networking for SFVBA members.	<b>8</b> <b>Probate &amp; Estate Planning Section</b> Fraud's Origins and Consequences <b>12:00 NOON</b> <b>MONTEREY AT ENCINO RESTAURANT</b> CPA Chris Hamilton will discuss the ethical implications surrounding fraud and the attorney's legal obligations. (1 MCLE Hour Legal Ethics)	9	<b>10</b> <b>Intellectual Property, Entertainment &amp; Internet Law Section</b> <b>12:00 NOON</b> <b>SFVBA OFFICE</b> John F. Stephens and Kevin Gilliland present. (1 MCLE Hour) <b>Board of Trustees</b> <b>6:00 PM</b> <b>SFVBA OFFICE</b>	11	12 <b>VETERANS DAY</b> 
13	14	<b>15</b> <b>Taxation Law Section</b> Income Tax Update <b>12:00 NOON</b> <b>SFVBA OFFICE</b> Stuart Simon will present his annual update on income taxes and potential changes due to the newly elected president's tax agenda. (1 MCLE Hour)	<b>16</b> <b>Workers' Compensation Section</b> <b>12:00 NOON</b> <b>MONTEREY AT ENCINO RESTAURANT</b>	17	18	19
20	21	22	23	<b>24</b> 	25	26
<b>27</b> <b>Family Law Section</b> Hot Tips <b>5:30 PM</b> <b>MONTEREY AT ENCINO RESTAURANT</b> Gary Weyman offers his classic presentation. Don't miss this opportunity to get the latest insights into the inner workings of the court and the family law practice. Approved for Family Law Legal Specialization. (1.5 MCLE Hours)	<b>28</b> <b>Editorial Committee</b> <b>12:00 NOON</b> <b>SFVBA OFFICE</b>	<b>29</b>	<b>30</b>			



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### Stepping Up to the Plate

**T**HE RESULTS OF THE 2016 Board of Trustees Election are in. In the SFVBA's first year conducting an online election, 40% more eligible members participated in the election process than recent years; 280 attorney members cast votes in 2016, more than 16% of eligible voters, compared to about 200 in 2015. I want to congratulate Michelle Diaz, Heather Glick-Atalla, Kathy Neumann, Joanna Sanchez, Allan Sarver and Hannah Sweiss on their election as SFVBA Trustees. I also want to welcome newly appointed Trustees Matthew Breddan, David Jones, and Christopher Warne. I look forward to working this year with this outstanding group of Bar leaders. The full 2016-2017 Board of Trustees is listed on page six.

#### Volunteers Needed

The Los Angeles Superior Court's civil trial courts are in crisis. The court's civil caseload—personal injury, unlawful detainer, limited civil non-collection and asbestos cases—has almost doubled in the Northwest District, from 17,000 cases to 29,000 cases since 2013. Trial delays have become substantial. As part of the court's comprehensive effort to address this crisis, some criminal courtrooms will be handling some of these, including unlawful detainer cases. But this is not enough.

Last month I emailed members on behalf of Northwest District Supervising Judge Huey Cotton. Judge Cotton has asked the Bar to recruit volunteers to settle civil cases in Van Nuys. An inspiring 130

**ELIZABETH POST**  
Executive Director



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


members responded to my plea for help by agreeing to volunteer for the program.

Similar to the settlement program the SFVBA administers in the Probate Court, two volunteer attorneys will be available twice a week at the Van Nuys courthouse to settle civil cases. Volunteer must have at least five years' experience as a practicing attorney and be in good standing with the State Bar. An MCLE training session will be held prior to the program's launch.

#### President's Circle

This month's *Valley Lawyer* profiles the SFVBA President's Circle members. The President's Circle is a special category of SFVBA membership that reflects a commitment to the legal profession and our community from the Valley's midsize and large law firms and legal organizations. I want to welcome firms that joined this summer: Woodland Hills' business law firm Mirman Bubman & Nahmias; Sherman Oaks' family law firm Brot & Gross; and statewide workers' compensation and employment law firm Pearlman Borska & Wax, headquartered in Encino.

President's Circle members receive SFVBA membership for every attorney and paralegal in the firm; recognition in *Valley Lawyer* and on the SFVBA's website; discounts at Judges' Night and Bar-wide events; and invitations to exclusive events.

Contact me to volunteer as a settlement officer or sign up your firm up for the SFVBA President's Circle. 

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By reading this article and answering the accompanying test questions, you can earn one MCLE credit. To apply for the credit, please follow the instructions on the test answer form on page 21.

# Benefits and Effects of a Receivership

By Edythe L. Bronston and Thomas Henry Coleman

---

A receiver serves as a neutral, a fiduciary, and an agent of the court. The attitude toward receiverships and their adjudication has morphed over the years. Once considered a legal luxury and an extravagant cost to a losing litigant, counsel now considering a receiver should bear in mind that a court that appoints a receiver will likely give more weight to the receiver's requests for authority than to requests from a party.

---

**A** RECEIVER IS AN AGENT OF THE COURT, NOT the parties. He or she holds assets *in custodia legis*, generally to preserve the *status quo* while parties litigate, but sometimes, depending on the type of receivership, to maximize benefit to an estate. Appointment of a receiver rests largely in the trial court's discretion and the court's decision to appoint or refuse an application for appointment will not be disturbed absent abuse of discretion.

In the past, courts often considered that receivers are legal luxuries and an extravagant cost to a losing litigant. More recently, courts recognize that the benefits may outweigh the extra expense, by short-cutting access to books and records, collecting receivables and preventing willful dissipation of assets. The availability of other remedies does not, by itself, preclude the use of a receivership. But a trial court will consider the availability and efficacy of alternatives in determining whether to employ the extraordinary remedy of a receivership.

A receiver functions as a neutral and, although an agent of the court, has fiduciary duties to all parties who are shown to have an interest in the property or fund, or their proceeds. The receivership estate consists of property that is properly in the receiver's hands and is under the control and continuous supervision of the court.<sup>1</sup> The receiver is a creation of the court, with no power except as conferred by the order of appointment and course and practice of the court.<sup>2</sup>

It is the court which has jurisdiction over the care of the property. This concept has great value to a party who lacks access to a company's books, records, finances and other assets, as the receiver preserves assets while the parties carry on their legal battle.

A receiver is paid from cash flow of the business; thus, the receivership does not burden one party over another while overseeing the maintenance, insurance, and proper operation of the assets. Should anything out of the ordinary occur, the receiver has access to the appointing court via a petition for instructions, often made *ex parte*. Examples of receiverships of this type are family law, dissolution

of corporations or other entities, and shareholder or partnership disputes.

The statutory basis for appointment of a receiver run through the California Codes.<sup>3</sup> As an example, under Family Code §290, "A judgment or order made or entered pursuant to this code may be enforced by the court by execution, the appointment of a receiver, or contempt, or by any other order as the court in its discretion determines from time to time to be necessary."

This statute gives courts broad discretion to fashion orders enforcing Family Code judgments. It is vitally important to consult both the current Rules of Court and local court rules, as procedures have been known to change.

Burdens of proof vary for a motion for appointment of a receiver. These depend on the type of case and severity of the receivership remedy. For rents, issues, and profits, receiverships require a less intense

showing since the receiver's control is over an income stream. General equity receivers, on the other hand, take possession of all or most of a defendant's assets for the benefit of all parties shown to have an interest in the assets, and are generally appointed in an action

brought by a government regulatory agency. In the latter case, a high burden of proof must be met.

Creditors of a defendant whose assets become part of a receivership estate are generally stayed by an injunction which is issued by the appointing court as part of the receiver's appointing order. That order should be recorded in all counties where real property is located. Federal receiverships may require a higher burden of proof than state court receiverships.<sup>4</sup>

### Why a Receiver?

A court can vest its agent, the receiver, with important powers that may be legitimately useful to the party seeking the appointment.<sup>5</sup> The lesser alternative of an injunction prohibiting fraudulent transfers, waste and dissipation of assets is usually less expensive. But a court that appoints a receiver will likely give more weight to the receiver's requests for authority than to requests from a party.

“

It is the court itself which has jurisdiction over the care of the property in dispute.”



**Edythe L. Bronston and Thomas Henry Coleman** are partners in BronstonColeman Professional Services, LLP, specializing in receiverships. Bronston is a graduate of Loyola Law School and Coleman graduated from UCLA Law School. Bronston can be reached at [ebronston@bronstonlaw.com](mailto:ebronston@bronstonlaw.com) and Coleman at [tom@thecolemanlaw.com](mailto:tom@thecolemanlaw.com).



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This may benefit the party that asks for and obtains the appointment of a receiver.

Counsel contemplating a motion for appointment of a receiver should use care to accurately describe the receiver's functions as a neutral, a fiduciary, and an agent of the court, not of either party.

The proposed receiver's experience, capabilities and expertise, including the nominee's aggressiveness and common sense, should also be considered. However, the moving party must also take into account that objective factors that will make the receiver effective in a case cannot include any unethical sway with the receiver.

### **Up Front Appraisal**

A party's legally legitimate need for a receiver must be appraised up front by counsel advising a party to undertake what can be a draconian venture. Has the party stated causes of action that will support a receivership? Does the party have unclean hands that will become an embarrassment when identified by a receiver? Are there facts that would legally obligate the receiver to make disclosures to government units—most notably, the Internal Revenue Service, Justice Department, or other federal or state agencies? Are there foreseeable legal or factual issues peculiar to the receivership that will be costly? Also important, is there a large enough corpus of assets that will financially support a receivership?

Experienced receivers' hourly rates are substantial. Equity receiverships usually exceed \$400 per hour, with subordinate, court-approved agents charging hourly rates which often exceed \$200. If, as is usually the case, the litigants have highly emotional antipathy toward each other, they and their respective lawyers will create issues which require attention and result in escalating expense.

Counsel seeking a receiver must have the legal, financial and practical expertise to estimate and communicate to the client the monthly cash flow a receivership can be anticipated to drain. Sometimes a lawyer is no more qualified to make this estimate than is the client. Consequently, counsel are advised to seek advice of well-regarded receivership specialists, capable of competently forecasting the reasonably possible receivership fees and expenses.

### **Review and Give Input on a Submitted Receivership Order**

The appointing order is the receiver's bible. The provisions of that order must be carefully considered. An experienced receiver generally has much more experience and knowledge of extraordinary events which can occur and which should be addressed than does an attorney who seldom operates in this arena.

Without the proposed receiver's review of and input into the proposed order, important provisions may be misstated or omitted. Other provisions may be unworkable. Failure to address these issues may result in delay, frustration and additional expense when the receiver must return to court on a petition for instructions or modification of authority.

While there are Judicial Council forms of receivership orders, those orders are generic and only apply to rents, issues and profits receiverships. Attempts to make provisions of Form RC-310 (Order Appointing Receiver after Hearing and Preliminary Injunction—Rents, Issues and Profits) applicable to equity receiverships usually have an unsatisfactory result.

In no event should drafting of the proposed receivership order be delayed until the eve of the appointment hearing. Attorneys contemplating a receivership may naturally give serious thought to seeking the immediate, *ex parte* appointment of a receiver. After all, the nature of this extreme exercise of equity jurisdiction calls for dramatic action.

Except for enforcement proceedings initiated by the state or federal government, it is virtually certain that in the Superior Court an *ex parte* receivership will be regarded with disfavor, almost always rejected by the court, and will far more often than not, at most, depending on merits of the case, result in the court turning the *ex parte* into a noticed motion, with an assigned hearing date months in the future and possibly an anti-dissipation TRO pending the hearing.

#### **A Receiver's Powers**


A receiver's powers include the right to make transfers and do such acts as the court may authorize respecting property in the estate. These powers can include the right to borrow money and issue receiver's certificates to carry out the primary object of the receiver's appointment, i.e., care and preservation of the property.<sup>6</sup>

Usually, the present lender is the only source of such funds. Lenders should either obtain a receiver's certificate, which is backed by all assets of the receivership estate and by the court, or an order deeming an advance under its deed of trust as mandatory. This requires notice to all entities which might have an interest in the property, including mechanics' lien claimants.<sup>7</sup>


#### **Who Eventually Pays the Fees of a Receivership?**

What happens if cash flow is not enough to sustain the receivership? Often an appointed receiver, as well as the moving party, doesn't learn that a business has insufficient cash flow until the receiver has taken possession and the investigation is well under way. Much expense may have already been expended by the time the receiver gets into court on a petition for instructions.

The trial court has extensive discretion to determine who must pay the receivership costs and expenses. It may



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assess costs against the fund or property in the estate or against the applicant for the receivership, or apportion it among parties. In the absence of an abuse of discretion, its decision will not be disturbed.<sup>8</sup>

Certain points in this regard bear particular consideration. First, receivership costs of administration, as approved by the court, have priority over other claims.<sup>9</sup> Second, unpaid administrative expenses bear interest. Third, costs of collection are also recoverable. And, fourth, a receiver whose fees are challenged is entitled to representation to defend against the objections.<sup>10</sup>

In *Atlantic Trust Co. v. Chapman*,<sup>11</sup> the U.S. Supreme Court reversed lower federal courts, which had imposed a deficiency judgment on the party who obtained the receiver's appointment. The Court, instead, held that only in special circumstances that didn't exist in that case would a party who successfully moved for appointment of a receiver be liable to the receiver for any deficiency of funds available to pay his or her administrative expenses.

Seemingly at odds with the *Atlantic Trust* opinion are recent, unpublished California Court of Appeal opinions. In *Lee v. Wien Bakery*,<sup>12</sup> the Court of Appeal required the plaintiff to pay all the receivership administrative expenses incurred by the respondent in obtaining appointment of the receiver and substantial additional fees and expenses, even without a showing of "special circumstances" referred to in *Atlantic Trust*. In *Garden Grove Galleria v. Cathay Bank*,<sup>13</sup> the Court of Appeal ruled that no such "special circumstances" were needed to justify imposing sole liability upon Cathay Bank.

Hopefully, a future, published California appellate opinion will eliminate the special circumstances doctrine. In the meantime, at least in the Second District of the Court of Appeal, the term "special circumstances" central to the opinion written by Justice Harlan in *Atlantic Trust*, may, as a practical matter, be reduced in importance, and California courts may sense more leeway in finding sole liability against a party responsible for the overall administrative expenses of a receivership. 

<sup>1</sup> *Turner v. Superior Court*, 72 Cal.App.3d 804,806 (1977).

<sup>2</sup> *Booth v. Clark*, 58 US 322, 331 (1854).

<sup>3</sup> Code of Civil Procedure §§564, 565, 708.610 – 708.630; Family Code §290; Civil Code §§2938 & 3439.07, Corporations Code § 1803, 15028, 25530, 17705.03; Health & Safety Code §§1325-1331, 17980.3, 116170, and 116665.

<sup>4</sup> *Aviation Supply Corp. v. R.S.B.I. Aerospace, Inc.* 999 F.2d 314 (8th Cir. 1993); 28 U.S.C. §959.

<sup>5</sup> CCP §§564 et seq.

<sup>6</sup> *Title Ins. etc. v. California Dev. Co.*, 171 Cal. 227, 231 (1917).

<sup>7</sup> *Harkin v. Brundage*, 276 U.S. 36 (1928).

<sup>8</sup> *Baldwin v. Baldwin*, 82 Cal. App. 2d 851, 856 (1947).

<sup>9</sup> *Clark on Receivers*, §641 (3d ed. 1959).

<sup>10</sup> *Macmorris Sales Corp. v. Kozak*, 249 Cal. App. 2d 998, 1005 (1967).

<sup>11</sup> *Atlantic Trust Co. v. Chapman*, 208 U.S. 360 (1908).

<sup>12</sup> *Lee v. Wien Bakery*, Appeal No. B241325 (LASC No. BC407761).

<sup>13</sup> *Garden Grove Galleria v. Cathay Bank*, (OCSC Case No. 30-2010-00342212) Case No. G046997 (2d Dist. 2013).





# Test No. 96

This self-study activity has been approved for Minimum Continuing Legal Education (MCLE) credit by the San Fernando Valley Bar Association (SFVBA) in the amount of 1 hour. SFVBA certifies that this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the State Bar of California governing minimum continuing legal education.

1. The receiver owes a fiduciary duty to the party that got him or her appointed.  
☐ True ☐ False
2. A receiver in a case in a court in California must be an attorney licensed in California.  
☐ True ☐ False
3. When a California Superior Court appoints a receiver, the court system is responsible for the receiver's fees and expenses if there are insufficient assets to pay the receiver in full.  
☐ True ☐ False
4. A receivership court may order a party that did not ask for the receivership to pay the receiver's fees and expenses.  
☐ True ☐ False
5. A receiver usually may not sell real estate from the receivership estate without an order of the receivership court approving the sale.  
☐ True ☐ False
6. Property within a receivership is legally in the receivership court's custody.  
☐ True ☐ False
7. A receivership is not available to parties in divorce cases.  
☐ True ☐ False
8. Many of the powers of a receiver are not contained within the order of appointment.  
☐ True ☐ False
9. A receiver may borrow money for the receivership on a secured basis by means of a receivership court's ordering the receiver to issue a receiver's certificate.  
☐ True ☐ False
10. A receiver's certificate can provide that all of the assets of the receivership estate serve as collateral for a loan.  
☐ True ☐ False
11. It is necessary that special circumstances exist before a receiver may charge the party that sought the receivership with any of his or her fees and costs.  
☐ True ☐ False
12. Payment of a receiver's fees and expenses has priority over other debts of a receivership.  
☐ True ☐ False
13. Allowance of a receiver's fees and expenses depend on an order of the court approving them.  
☐ True ☐ False
14. It is not likely that a receiver will be appointed in an *ex parte* proceeding.  
☐ True ☐ False
15. A receiver may enter into an agreement with a manager to engage him or her on certain terms after the end of the receivership.  
☐ True ☐ False
16. A receiver cannot purchase assets of the receivership estate.  
☐ True ☐ False
17. Most receivers charge an hourly rate of \$200 or less.  
☐ True ☐ False
18. Post-judgment receivers are not authorized by statute in family law matters.  
☐ True ☐ False
19. A receiver cannot operate a business on a permanent basis.  
☐ True ☐ False
20. A receiver cannot be held in contempt of court.  
☐ True ☐ False

## MCLE Answer Sheet No. 96

### INSTRUCTIONS:

1. Accurately complete this form.
2. Study the MCLE article in this issue.
3. Answer the test questions by marking the appropriate boxes below.
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### ANSWERS:

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

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| 2.  | <input type="checkbox"/> True | <input type="checkbox"/> False |
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# The SFVBA President's Circle: *A Firm Foundation*

By Michael D. White



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Members of the SFVBA President's Circle—seventeen of the Valley's largest law firms and legal organizations—are recognized for their dedication to the Bar and the community. The President's Circle assists the SFVBA in its mission to create a more inclusive legal profession, provide meaningful access to justice, promote public service, educate its members, and uphold the highest standards of professionalism.

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**PRESIDENT'S CIRCLE**



**O**VER ITS 90 YEARS' HISTORY, THE CHANGES IN membership of the San Fernando Valley Bar Association has closely paralleled the growth of the greater San Fernando Valley. Since the organization's founding in 1926, the Valley has evolved from farmland and orchards, to the postwar suburbia with pockets of industries, to the diverse metropolis of today, with a population of 1.8 million and home to a handful of Fortune 500 companies.

The SFVBA began with 27 founding members who practiced in one and two attorney general practices, predominantly located around a new Van Nuys court. With each passing decade, the practice of law in the Valley became more specialized and sophisticated, and reached every neighborhood of the Valley.

Today, the majority of SFVBA attorney members are sole practitioners or work in small firms of less than

five attorneys. Yet law firms with upwards to 50 lawyers practice in high-rises from Glendale to Warner Center, and along Ventura Boulevard, from Sherman Oaks to Woodland Hills. The San Fernando Valley also houses a State Bar certified law school and one of the largest public interest law firms in California.

Seventeen midsize and large law firms and legal organizations encompass the SFVBA President's Circle, a special category of membership that reflects a commitment to the legal profession and the community. Below, members of the President's Circle address the issues and challenges facing the profession and how practicing law in the Valley differs from practicing law elsewhere. These Bar members also share their observations on diversity, mentoring new lawyers, and participating in community outreach and educational programs.



**I**N 1976, LEE ALPERT AND HIS PARTNERS FOUNDED what would later evolve into Alpert, Barr & Grant. The San Fernando Valley College of Law was enrolling young lawyers-in-the-making; the SFVBA was celebrating its 50<sup>th</sup> Anniversary and its annual "Hi-Jinks" event held at Hollywood's Masquers Club came to a close after the seventeenth show.

The Valley was much smaller and included a very close cadre of attorneys. Over the years, the Valley and the Bar have grown and evolved, much like the firm itself. Alpert, Barr & Grant has remained committed to its roots in the San Fernando Valley and the San Fernando Valley Bar Association. Four of the firm's five partners—Lee Alpert, Gary Barr, Mark Blackman and Adam Grant—have served at the helm of the 90-year-old Bar Association. The collegial feel, the ability to make a difference on a daily basis, and the opportunities to connect to the legal and general community have motivated the firm to 'give back.'

Currently, the firm actively supports a number of organizations, including the Child Development Institute, the Jewish Home for the Aging and the highly-regarded Valley Bar Mediation Center, which provides pro bono and low cost mediation opportunities to litigants.

Firm shareholder Adam Grant played a critical role in establishing the Mediation Center in the months before his October 2013 induction as President of the San Fernando Valley Bar Association, while Lee Alpert and Gary Barr, have been honored with, respectively, the coveted Fernando Award and the SFVBA Stanley Lintz Award for their efforts over the years to serve the citizens of the San Fernando Valley.



**F**OUNDED IN 2005, BROTT & GROSS HAS GAINED a reputation for its expertise on all aspects of family law and its tenacious courtroom advocacy. Led by founding partners Mark Gross and Ronald F. Brott, the seven attorney firm has achieved two of its foundational goals: filling a void in the San Fernando Valley for a full-service family law firm, and meeting the needs of an extensive and expanding client base throughout Southern California.

"Initially, most of our referrals came from people in the Valley, or our clients were located in the Valley, so it was natural for us to maintain a Valley geographic presence," says founding partner Mark Gross.

Over the years, though based in Sherman Oaks, the firm's client and referral base has significantly expanded beyond the Valley to cover Los Angeles, San Bernardino, Ventura, Riverside, and Orange Counties.

"Though we represent lots of folks with a 310 area code, our base in the Valley remains very strong and we have an advantage when a prospective client who lives in the Valley is interviewing us and the other family law firms 'over the hill,'" says Gross, who served for ten years as a member of the Executive Committee of the SFVBA Family Law Section.

In 2008, the firm added an additional partner, Shelley L. Albaumb, and has grown with three additional associate attorneys. Attesting to the high caliber of the firm, the partners have received ongoing recognition from the family law bench and bar, including being repeatedly named as Southern California Super Lawyers in family law with frequent invitations to serve as guest lecturers on the topic of family law.

**I**N 1958, ATTORNEY AND ACCOUNTANT SAMUEL Goldfarb successfully melded his professional skills to establish a practice specializing in estate planning, trust, probate, tax and business law. Over the years, Goldfarb's one-man practice developed into a highly-regarded six attorney law firm, with expertise in real property and business transactional law, and litigation in state and federal court involving real property, insurance, construction and environmental disputes, as well as representation of clients in regulatory matters before administrative tribunals.

One of the firm's most active practice areas is the protection of intellectual property rights, with successful representation of filmmakers and distributors, commercial website operators, and book publishers. In fact, the firm obtained one of the largest trial judgments ever obtained in the U.S. District Court for the Central District of California for the misappropriation of sales data and a trade secret protected customer list under the California version of the Uniform Trade Secrets Act. In addition to recovering damages for copyright and trademark infringement, the firm obtained temporary restraining orders, preliminary injunctions and permanent injunctions in trade secret, copyright and trademark matters.

Considered one of the oldest law firms in the Valley, Goldfarb, Sturman & Averbach's roots run deep in the community. "We've never considered leaving the Valley," says partner Zane Averbach, "It is our home and we have very deep roots in the community and many of its institutions."

Passing on its founder's values to new attorneys joining the firm has proved critical to its longevity. "In properly mentoring our younger incoming attorneys, we pair them with either a senior partner or senior associate in their area of practice to shadow their day, meet with clients, and attend court appearances," says Averbach. "We do this for an extended period of time until the new attorney has confidently grasped our firm's culture and work processes."



**A**RTHUR A. GREENBERG AND ROBERT D. BASS established the firm in 1984 and over the years have recruited top-flight attorneys to establish and grow the firm's litigation and transactional practice areas. Under their leadership, G&B has emerged as one of the San Fernando Valley's leading full-service law firms, providing corporate, litigation and bankruptcy legal services to individuals, privately held businesses, corporations and public concerns.

In May 2016, the firm expanded its base of expertise when longtime apparel-industry attorney Benjamin S. Seigel joined its staff as senior counsel to represent its apparel and textile clients in both transactional and litigation matters involving corporate, labor, transportation, construction, and real estate issues.

The previous month, the Super Lawyers rating service selected five Greenberg & Bass attorneys to receive the Super Lawyer distinction in their various practice areas—partners James R. Felton for Business Litigation and David Adelman for Real Estate, Business/Corporate and Intellectual Property;



associate attorney Yi Sun Kim, recognized as a Super Lawyer Rising Star (2013-2016) for Bankruptcy, Business Litigation, and Business/Corporate; and Of Counsel attorneys Arthur A. Greenberg for Bankruptcy, General Litigation, and Business/Corporate and Douglas M. Neistat for Bankruptcy.

According to Managing Partner James Felton, virtually every one of the firm's eleven lawyers is on the board of a non-profit or is involved with a non-profit. Many of the lawyers also participate in the various sections of the SFVBA. "We try to expose our younger lawyers to Valley networking and charitable associations," he says. "Ultimately part of a lawyer's value is that lawyer's ability to bring in and retain business and that comes from involvement in those types of groups."



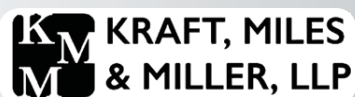


**M**ARRIED PARTNERS GLENN AND LISA KANTOR formed Kantor & Kantor in 2004 in Northridge. A decade later, the firm has 13 lawyers representing individuals whose insurance companies have failed or refused to pay claims arising out of disability, health, life, long-term care, and other liability insurance claims. The firm's expertise and professionalism are critical when navigating the complicated and often frustrating world of the Employee Retirement Income Security Act of 1974, more commonly known as ERISA.

All ERISA claims have several things in common. They are most frequently litigated in federal court, while an administrative appeal must be filed before the case comes before a judge.

"Our ERISA lawyers have helped hundreds of people who have had their employee benefit claims denied," says partner and SFVBA President Elect Alan Kassan. "Though our offices have always been in the San Fernando Valley, we very rarely file cases here. Our firm is unusually specialized."

According to one of those clients, Kantor & Kantor attorneys who handled the case, "kept me completely informed through the whole process and held my hand the whole way through. They were kind, honest and explained each step through the entirety of my case. They returned each call, each email (and all within hours) and they never gave up on me or my case. At times, I thought they would, but they kept pushing through. I am very humbled and grateful that they were on my side."



**K**RAFT, MILES & MILLER IS A GENERAL PRACTICE firm that "focuses on family law, estate planning, traffic tickets, and personal injury, and providing its clients with superior service and even better results by handling every individual matter with the utmost professionalism and integrity."

Formerly the Law Offices of Marcia L. Kraft, the firm was founded in 1990 by attorney Marcia Kraft, with the goal of maintaining a law office offering affordably priced services so middle-class families could have access to dedicated and experienced legal professionals.

A self-described "tough, New York, woman lawyer with four children living at home, who didn't quite fit in with the fresh-out-of-law-school corporate types," Kraft early on saw the value in mentoring young attorneys just starting out on their legal careers.

Among those Kraft has mentored is her daughter Joy Kraft Miles, who chose law after being a history and art history

teacher for eleven years, and herself coaches law students and new lawyers, just as her mother did for her.

"Our firm actively supports the San Fernando Valley community," says Kraft. "We donate legal services to local schools, participate in school volunteer activities, and have at least one partner actively involved with the Valley Community Legal Foundation." With seven lawyers, the firm, she says, "has worked hard at becoming the neighborhood 'go to' no matter what legal needs may arise" and priding itself on engendering "peace of mind through effective representation."



**A** FULL-SERVICE LOS ANGELES LAW FIRM FOR businesses and individuals, Lewitt, Hackman, Shapiro, Marshall & Harlan is noted for its "quality, hard-working, cost-efficient, and effective attorneys," says Keith T. Zimmet, the firm's president and managing shareholder.

The Valley's continued growth in population and business, he adds, "has provided endless opportunities for Lewitt Hackman and other law firms. It also has allowed Lewitt Hackman, as one of the largest law firms in the Valley, to make meaningful contributions to the Valley's citizens in general, and to the Valley's legal profession in particular."

Community service is a core principle of the firm, with its 30 lawyers taking an active role in working with non-profit professional, civic, and charitable organizations serving the Valley. "Many of our attorneys have served on the San Fernando Valley Bar Association Board of Trustees, while Kira Masteller, the newly installed SFVBA President, joins three other Lewitt Hackman attorneys who previously served as president," says Zimmet.

In addition, Lewitt Hackman is an approved MCLE provider, providing free legal seminars to the community throughout the year, while its attorneys are frequent speakers at Valley events and they serve as volunteer judges and mediators.





"Like all legal communities, the Valley faces the challenge of providing quality legal services to people of all socio-economic backgrounds," says Zimmet.

New technology, he says, allows for more "self-help legal relief, but as our society becomes more regulated, our courts become more overcrowded, and our business and personal populations increase and become more diversified, the need for quality, cost-effective legal services keeps increasing."

Often, he says, "quality and cost-effectiveness can be at odds with each other. The greatest challenge facing the Valley legal community is bridging that gap."



**W**OODLAND HILLS-BASED MIRMAN, BUBMAN & Nahmias counts a broad spectrum of long-term clients, from international and national financial institutions and independent community banks to small business owners and manufacturers among its clients.

Specializing in business, real estate, banking, insolvency, and healthcare law, the firm's three named partners—Alan Mirman, Michael Bubman and Alan Nahmias—have a combined 90 years of legal experience.



Having formed MB&N in 2008 with the mantra of "We Know Business," the seven attorney firm focuses on litigation (including special expertise in provisional remedies such as receivership), transactional work, and insolvency.

Quality of life influenced the firm's decision to open its offices in Woodland Hills. "We all live in the Valley and like this environment, so it made sense," says named partner Alan Mirman. "Clients are not concerned with our physical location, and we had actually been practicing here for 12 to 15 years (Alan Nahmias approximately 25 years) before

starting our own firm in the Valley more than eight years ago."

"[The Valley is] certainly more casual, and [offers] some sense of community with local attorneys."

Mirman has noticed changes just in the past decade. "[There are] more matters in outlying Valley courts than when we started the firm, more firms with a presence, given the growth of Warner Center, Westlake Village and Thousand Oaks."

The firm involves its young lawyers in all aspects of the practice, from basic motions and briefs, to all aspects of litigation and transactional work, as well as client development activities. We also make sure they have significant direct contact with clients so they become known to, and familiar with them.

The firm's lawyers are active in local and national non-profits and bar activities. According to Mirman, the firm "provides educational programs for lawyers, such as through California Receivers Forum and various other bar groups. Attorneys are active in education, hunger, and community organizations."



**N** EIGHBORHOOD LEGAL SERVICES OF LOS Angeles County provides free assistance to more than 100,000 individuals and families annually through innovative projects that expand access to the legal system and address the most critical needs of Los Angeles' disadvantaged.

Founded in 1965 in the San Fernando Valley as part of the nation's War on Poverty, NLSLA is now one of the largest and most prominent public interest law offices in California. Through a combination of direct representation, policy advocacy and impact litigation, NLSLA attorneys work to reduce the effects of poverty in Los Angeles' low-income communities, support the development of opportunities for individuals and families to move themselves out of poverty, and protect and enforce the legal rights of poor people by ensuring access to our justice system.

More than 40 attorneys, based in offices, courthouses and clinics throughout Los Angeles County, specialize in areas of the law that disproportionately impact the poor, including housing, public benefits, and healthcare. NLSLA advocates also provide legal representation for low-income individuals on a variety of immigration, family law and workers' rights matters.



**S**INCE ITS FORMATION IN 1984, NEMECEK & COLE has evolved from a two lawyer boutique to a 25 attorney law firm that is recognized as one of Southern California's leading professional liability, employment, business litigation, and insurance and business litigation firms.

With a staff of seasoned trial attorneys who have successfully tried dozens of cases and handled in excess of 100 appeals before all courts, the firm's client list includes some of the most prominent and established professionals, businesses, major companies, and insurance companies in the country, according to junior partner Marshall Cole.

"When new attorneys come to our office, they are going to get real experience straight away. The mid-level attorneys work directly with them in providing a heavy workload, with



assignments that provide the younger attorney with the opportunity to learn how to practice law," says Cole.

As that neophyte attorney grows proficient in the more basic skills, and learns the responsibility required for the practice, he adds, "They are provided with greater autonomy and more fulfilling assignments. We enjoy providing our attorneys with courtroom experience from day one and the ability to handle cases on their own very early on."

Investing significant time to its active membership in the San Fernando Valley Bar Association, the firm routinely provides its attorneys with continuing legal education throughout the year. "Our firm's location provides great proximity to the various courthouses in Los Angeles County, as well a number of other cities where we routinely do business," says Cole. "With the affordability of the Valley, coupled with its ideal location, we view it as the best place to be."



**OLDMAN, COOLEY, SALLUS,  
BIRNBERG & COLEMAN, L.L.P.**

**O**LDMAN COOLEY IS RATED AS A 'TIER ONE' law firm by U.S. News & World Report and is designated by Martindale-Hubbell as a 'preeminent law firm,' the highest rating given by the national legal information services company. With fourteen attorneys and a multi-lingual support staff, the boutique firm has provided its clients in the San Fernando Valley and throughout Southern California with high-quality probate, trust, estate tax and planning, corporate and civil law services since 1977.

The firm's client list includes individuals, corporations, executors, administrators, trust contestants, will contestants, beneficiaries, creditors, banks, professional fiduciaries, trust companies, charities, and religious organizations.

Over the years, Oldman Cooley attorneys have served as President of the San Fernando Valley Bar Association, Chairman of the Probate and Trust Section of the Los Angeles County Bar Association, as well as board members and officers of those and several other organizations.

At the state level, the firm's attorneys have served on the Executive Committee of the Trust and Estate Section of the State Bar of California, drafted proposed legislation, and testified before the California Assembly Judiciary Committee. Nationally, its attorneys are currently serving as Fellows of the American College of Trust and Estates Counsel and have participated in various committees at the American Bar Association.



**H**EADED BY FOUNDING PARTNER BARRY S. Pearlman, the Law Offices of Pearlman, Borska & Wax has grown each year since its inception in 1984 to 50 attorneys and as many support staff and paraprofessionals.

The firm specializes in employment law, workers' compensation defense, subrogation, liability defense and labor-related matters, with five offices strategically





**E**STABLISHED IN 2006, PEARSON, SIMON & Warshaw has gained a well-earned reputation as a staunch advocate for individuals and groups in California and throughout the country involved in all types of challenging cases, including class actions, antitrust cases, business and securities litigation, consumer and employment cases.

Headquartered in Sherman Oaks, with a satellite office in San Francisco, the firm's ten attorneys have successfully managed complex and class action litigation as lead or co-lead counsel, obtaining substantial settlements and jury verdicts in groundbreaking cases, including a number of major class action suits against such companies as Warner Music Group Corp., Fasttrack, Anheuser-Busch, American Express Financial Advisors, and Pizza Hut.

In 2016, the firm achieved a landmark \$1.864 billion antitrust settlement in a case alleging twelve Wall Street banks conspired to fix prices and limit competition in the credit default swaps market. The firm, led by partners Clifford Pearson and Bruce Simon and Senior Counsel George Trevor, represented named plaintiff, the 160,000-member Los Angeles County Employees Retirement Association.

In addressing the court before the final judgment was announced, retired Judge Daniel Weinstein paid Pearson, Simon & Warshaw a high compliment, telling the court "I have rarely, if ever, observed a plaintiff in a case of this complexity and size, achieve a result of this magnitude with the speed that plaintiffs achieved here. . . . [plaintiffs' counsel's] strategy, timing, and execution resulted in one of the best settlements I have witnessed in more than 30 years of mediating, particularly given the challenges they would have faced in litigating this complex case."

located throughout California. The firm is headquartered in Encino, with satellite offices in Oxnard, Glendale, Orange, and San Diego.

"Our attorneys bring a wide range of expertise in all types of employment issues and we also provide complimentary education and training for our clients on relevant employment topics with an eye towards helping companies avoid litigation," says managing partner Barry Pearlman.

The firm focuses on providing education, counseling and litigation support to employers, insurance carriers, and third party administrators, with "a cutting-edge and aggressive approach to litigation, as well as an ability to tailor cost-effective solutions to fit client needs, has led to a high level of client satisfaction."

In addition to continuing legal education, this November, the firm will take four or five new attorneys into its Workers Compensation 101 Program. During the four month program, these new attorneys will be trained by a retired judge and a retired attorney with forty years of practice.

"We also pair up our newer attorneys with a senior attorney or partner in the office to provide more one-on-one mentoring outside of our training program," says Pearlman. "We also have 'PB&W U' every month. This is an educational program for all attorneys and paralegals to attend."

Having spent his entire life in the San Fernando Valley, he says, "It was important to me to stay in this area to be the hub of our law practice. My practice started in Tarzana and only moved once to Encino more than 20 years ago. I could not find a better place to call home."



**A**MONG THE MOST SIGNIFICANT ISSUES AND challenges facing the San Fernando Valley legal community are providing legal support to the increasingly diverse and urbanized population of the Valley and the resulting legal issues surrounding immigration, landlord tenant, and easement disputes.

"The Valley has become increasingly multi-racial largely as a result of migration of immigrants from many diverse





places and the ‘suburbs’ have melted into urbanized areas,” says Kristi Dean, managing partner Stone | Dean LLP in Woodland Hills.

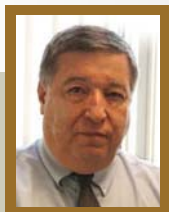
“With diversity comes new and different challenges and the need for affordable legal services for the variety of different ethnic groups.”

Stone | Dean, founded in 1992, bills itself as a full-service law firm focused on solving problems and taking on new challenges. “The Valley maintains a reputation all its own, despite its many similarities to the surrounding areas and the same goes for doing business here,” says Dean. “The San Fernando Valley is so much more ‘suburban,’ with enough family-owned businesses to make your head spin.”

The Valley, she adds, “isn’t just the place we do business, it’s as the place we call home. As such, we’ve maintained a great reputation and done work for some important organizations around the area, such as the LAPD Foothill Division, The City of Hope, American Cancer Society’s Making Strides Against Breast Cancer of Los Angeles, and Villa Esperanza Services.”

The firm’s nine attorneys are noted for their volunteerism, which includes investing time in the SFVBA Mandatory Fee Arbitration Program and mediation programs, and serving as pro tem judges for the courthouses located in the Valley.

For a business law firm like Stone | Dean, this presents “a unique sort of client; the kind that’s been family-owned and operated for decades. We pride ourselves on



**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).

being able to help these community-owned businesses with serious problems because they are an important foundation to the Valley’s success what makes the Valley so great,” she says.



**T**HE UNIVERSITY OF WEST LOS ANGELES SCHOOL of Law opened its doors with just six students in 1966 when a visionary group of local educators resolved to address the need for educational programs geared toward the working adult. UWLA has been accredited by the Committee of Bar Examiners of the State Bar of California since 1978.

In July 2002, the law school expanded by acquiring the San Fernando Valley College of Law, then located in Woodland Hills. Today, UWLA has campuses in Chatsworth and Inglewood. The law school can boast an impressive roster of alumni of attorneys and judges, many of whom practice and serve in the San Fernando Valley.

UWLA is particularly proud of its Moot Court Program, currently headed by faculty advisor and California Deputy Attorney General, David F. Glassman. Under his guidance, UWLA students have won best brief awards in the Roger J. Traynor California Appellate Moot Court Competition and reached the finals of the Seton Hall John J. Gibbons National Criminal Procedure Moot Court Competition. In 2006, a UWLA team of students finished second in the written brief portion of the latter event, defeating teams from more than 30 institutions accredited by the American Bar Association, while in 2009, a team of two UWLA students received first-place in the same competition.





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# How to Lead Your Clients to the Purchase of a Franchise

By Barry Kurtz



**F**RANCHISING IS A FLEXIBLE, tried and true method of distributing products and services, offering business owners an alternative avenue to expand their already successful businesses. In a typical franchise arrangement, franchisees sell or distribute their franchisor's trademarked products or services in exclusive, protected territories in which the franchisor will not permit other franchisees to operate or to offer the same products or services. In addition, franchisees rely on their franchisors for advice, training, advertising and marketing assistance.

Franchisors also usually provide their franchisees with manuals outlining their corporate operations and standards, and closely monitor their franchisees for compliance to protect the integrity of their brand and systems.

## Pros and Cons of Buying a Franchise

When clients consider the purchase of a franchise, McDonald's, Subway, and Burger King may immediately come to mind, but there are hundreds of other franchisors in a wide variety of food, retail, and service operations that are energetically competing with each other to sell their franchises.

The benefits to owning a franchise can include access to a proven business system, a wider customer base, greater brand name recognition, and a stronger market presence; group purchasing discounts, administrative assistance, professional marketing, and the benefits of corporate research and development; mentorship and continuing education and training; and support from the franchisor and other franchisees with similar goals, needs, and challenges.

While rewarding, acquiring and operating a franchise shouldn't be seen as a bed of roses, but a serious business with disadvantages that could



**Barry Kurtz**, a Certified Specialist in Franchise and Distribution Law by the State Bar of California Board of Specialization, is the Chair of the Franchise & Distribution Law Practice Group at Lewitt Hackman in Encino. Kurtz may be reached at [bkurtz@lewitthackman.com](mailto:bkurtz@lewitthackman.com).



well include investing in a franchise while entertaining the fantasy of independent ownership. Franchisors, in general, want followers, not innovators, and can impose strict limitations on any deviation from their corporate operating procedures and business model.

Buying a brand name franchise can be very expensive, with initial costs exceeding the costs required to start-up a wholly-owned, independent business. Generally, franchisees must pay their franchisors non-refundable advance payments, as well as non-refundable continuing royalty payments calculated as a percentage of gross revenue for the franchisor's operations and advertising services. At the same time, some franchisors may not provide the necessary training, guidance and support services that are critical for the success of a franchise.

### What Is a Franchise?

If the elements of a franchise are present in an agreement, the business relationship governed by the agreement is a franchise regardless of the name given to it by the parties and is highly regulated by federal and state laws in favor of, and to protect, franchise buyers.

Under California law,<sup>1</sup> a business relationship is a franchise if the business will be substantially associated with the franchisor's trademark; the franchisee will directly or indirectly pay a fee to the franchisor for the right to engage in the business and use the franchisor's trademark; and the franchisee will operate the business under a marketing plan or system prescribed in substantial part by the franchisor.

By way of contrast, true licensing, distributorship and dealership arrangements are not franchises because they lack at least one of the three elements mentioned above. For example, under a typical licensing arrangement, a company, the licensor, permits another, the licensee, to sell its

products or services in exchange for a percentage of the proceeds from the sale without any other involvement on the part of the licensor. The licensee operates under its own trade name and usually buys products or services from the licensor at wholesale prices that are, in turn, resold to the public with neither party substantially involved in the day-to-day business affairs of the other.

### Regulation of Franchises

Federal law<sup>2</sup> and the laws of many states require franchisors to provide prospective franchisees with a Franchise Disclosure Document (FDD) before the franchisor may sell a franchise. An FDD is an offering prospectus written in plain English that provides prospective franchisees with answers to 23 specific questions about the franchisor and the franchise. Franchise candidates must have the FDD for at least fourteen full days

before they can execute a Franchise Agreement or pay the franchisor any money.

Currently, thirteen states—California,<sup>3</sup> Hawaii,<sup>4</sup> Illinois,<sup>5</sup> Indiana,<sup>6</sup> Maryland,<sup>7</sup> Minnesota,<sup>8</sup> New York,<sup>9</sup> North Dakota,<sup>10</sup> Rhode Island,<sup>11</sup> South Dakota,<sup>12</sup> Virginia,<sup>13</sup> Washington<sup>14</sup> and Wisconsin<sup>15</sup>—require franchisors to provide similar information in their FDD and to submit their FDD for review and registration by a governmental agency before any franchises are sold. The FDD must include, among other things:

- Background information and business experience of the franchisor and its executives
- Litigation and bankruptcy history for the franchisor, its affiliates, and their executives
- Descriptions of the fees payable from the franchisee to the franchisor

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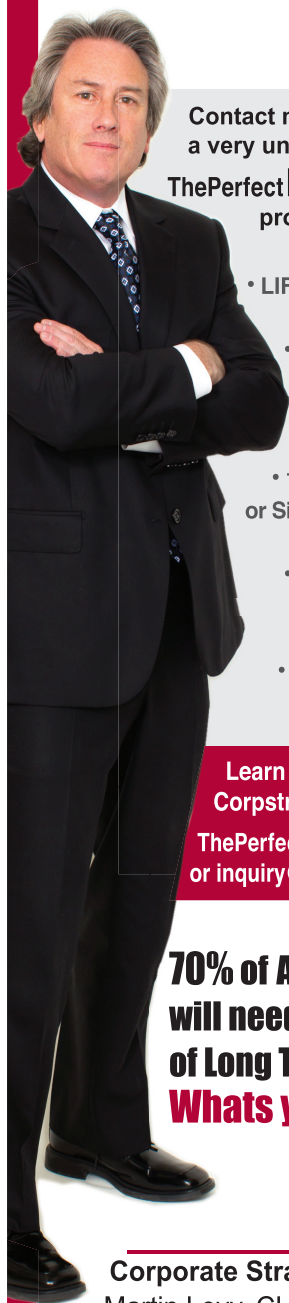
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- Initial investment required to open a franchised business
- Summary of the primary responsibilities of the franchisor and franchisee
- An explanation of the franchisor's training requirements and a schedule for classroom and on-the-job training
- Table of contents of the franchisor's operations manuals
- Information regarding institutional and local maintenance of any franchisor managed marketing funds and disbursements from the marketing fund in the preceding year
- An explanation of the territorial rights that may be granted to franchisees
- Information regarding the ownership and use of the franchisor's trademarks and patents

## Purchase Guidelines

Potential clients should look for a business in which the typical daily activity aligns with their own interests and avoid those that will require a routine they may dislike. They will greatly enhance their chance of success by selling products or services they understand and by not jumping into businesses that are completely new and different to them.

Clients should consider their own strengths, weaknesses, and comfort levels. If they are happiest when following orders, buying a franchise could be a wise choice, with the understanding that they might, at some time in the future, chafe at the highly supervised nature of the franchisor/franchisee relationship.

They will need to determine if the business model is profitable for the franchisor and its franchisees, and, if so, to what degree, and if

the business is sustainable in the marketplace. Franchises built on fad products or services rarely survive. To be sustainable, the business concept should be unique enough to withstand competition and also be one that potential franchisees are willing to pay to learn.

Clients also need to be realistic about the costs of becoming a franchisee by looking for a franchise that matches their resources and obtaining a current FDD from the franchisor. A franchisor without an FDD is generally not one worthy of consideration.

Due diligence is vital with both you and your client learning everything possible about the franchisor and the franchise. Your clients should talk to every current and former franchisee that they can find. One of the most important signs of a healthy franchise system is a high level of satisfaction among current franchisees.

Potential clients should also investigate the franchisor's management team. A system with leaders who have substantial experience in the franchised business and industry is preferred over a system whose management team's experience is marginal or diluted by involvement in other activities.

Clients should also ask themselves whether the franchisor's staff, as well as other franchisees in the system, conduct themselves professionally. It's critical that the character of the people your clients will work with must match up with their own standards.

Franchise agreements tend to favor franchisors to maintain system uniformity. However, franchise agreements that are too one-sided place franchisees at the mercy of the franchisor's whims and judgments. Your clients should find a system where the franchise agreement is balanced, either during its inception or through its negotiation.



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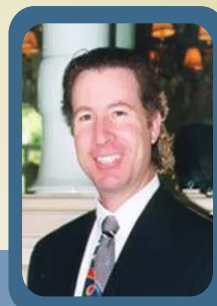


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## Legal Protection

Once a franchise is purchased, the parties must adhere to the terms of their franchise agreement and any applicable law. While reliance on applicable law is not a wise alternative to effective pre-purchase due diligence, California and seventeen other states<sup>16</sup> have franchise relationship laws that restrict a franchisor's right to terminate or refuse to renew or consent to a transfer of a franchise without good cause.

California recently expanded the termination, transfer and renewal rights for franchisees operating under franchise agreements entered into or renewed on or after January 1, 2016, and for franchise arrangements with an indefinite duration that permit either party to terminate a franchise agreement without cause.<sup>17</sup>

The new law increases the required cure period for franchisee defaults from 30 to at least 60, but no more than 75 days, unless the parties mutually agree on a longer cure period, and includes a new 60-day notice of default/termination requirement. In addition, the amendment imposes a new "substantial noncompliance" standard on actions and inaction that may constitute good cause for termination and non-renewals. Its goal is to eliminate terminations and non-renewals for non-material violations of the franchise agreement.


Despite these new notice and cure requirements, franchisors, if their agreements permit, may still terminate a franchisee with no opportunity to cure in the case of bankruptcy, abandonment, mutual agreement, material misrepresentation, illegal activity, repeated non-compliance with the franchise agreement, and imminent danger to the public.

The new law prohibits the sale, transfer, or assignment of a franchise, all or substantially all of the assets of

a franchise business, or a controlling or non-controlling interest in the franchise business, without the franchisor's written consent.

Franchisors cannot prevent such a transfer to a purchaser who meets the franchisor's then-existing standards for new and renewing franchisees. The new law also creates a framework for the notice and information a selling franchisee must provide its franchisor on a proposed sale.

The new law mandates that a franchisor must, "as soon as practicable" after receiving a franchisee's notice, inform the franchisee of any additional information it requires and issue its approval or disapproval, with reasons, within 60 days or any shorter period provided in the franchise agreement. A franchisor that fails to do so will be deemed to have approved the transfer.

With some exceptions, even when a franchise agreement is properly terminated or legally not renewed, a franchisor must purchase from the franchisee, at its original price less depreciation, all inventory, supplies, equipment, fixtures and furnishings that the franchisee purchased from the franchisor or a franchisor-approved supplier. In addition to any other damages, franchisees now may be awarded the fair market value of the franchised business and franchise assets following a wrongful termination or non-renewal. 

<sup>1</sup> Cal. Corp. Code §31005(a).

<sup>2</sup> 16 C.F.R. §436.2.

<sup>3</sup> Cal. Corp. Code §31000.

<sup>4</sup> Haw. Rev. Stat. §482E-3.

<sup>5</sup> 815 ILCS 705.

<sup>6</sup> IC 23-2-2.5.

<sup>7</sup> Md. Code Ann., Bus. Reg. §14-214(a).

<sup>8</sup> Minn. Stat. §80C.

<sup>9</sup> N.Y. Gen. Bus. L. §683.

<sup>10</sup> N.D. Cent. Code §51-19.

<sup>11</sup> R.I. Gen. Laws §1928.15.

<sup>12</sup> S.D. §37-5B.

<sup>13</sup> Va. Code §13.1-557.

<sup>14</sup> Wash. Rev. Code §19.100.010.

<sup>15</sup> Wis. Stat. §553.

<sup>16</sup> 16 C.F.R. §436.2.

<sup>17</sup> Cal. Bus. & Prof. Code §20000 – 20043.





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# Vehicle Code Section 31:

## Statutory Construction and the Duty to Instruct on Materiality

By Mike R. Horwitz

**C**ALIFORNIA VEHICLE CODE §31 reads, “No person shall give, either orally or in writing, information to a peace officer while in the performance of his duties under the provisions of this code when such person knows that the information is false.”

At first glance, the law reads as if knowingly providing false information to any peace officer is a violation. The October 15 case on which this article is based involved the appeal of a conviction for violations of Vehicle Code (VC) §31 and §23152. Only the conviction on §31 was raised on appeal and hinged on the position that that if a jury must be instructed, the false information must be material. The conviction was reversed for insufficient evidence; as a result, the materiality issue was not decided. The case was an unpublished reversal, so the law remains undecided.

### Vehicle Code Section 31

In the early to mid-1980s, when a defense attorney settled cases charging their client with a §31 violation, another

six month misdemeanor would be found to replace §31 when §31 wasn't the only possible violation. Computer research was less sophisticated than it is now and it proved difficult to understand the true scope of §31.

There are over seventy peace officer duties specified in the voluminous Vehicle Code and none applied to the author's case. A duty set out in the Vehicle Code with a “shall” and a “may” is permissive.<sup>1</sup> For all peace officers, it is not a duty under the code to question a driver or enquire about what alcoholic beverage(s) an individual has, or hasn't, consumed. That duty derives from those inherent with their occupation as a peace officer.<sup>2</sup>

According to the plain meaning of §31, a particular duty must be provided for under the provisions of the Vehicle Code as mandated by the state legislature. Of all the duties peace officers have under the Vehicle Code, all but one are administrative. For example, VC §625 imposes a duty on California Highway Patrol (CHP) officers and officers “on duty to enforce Divisions 10 (Accidents and

Accident Reports) or 11 (Rules of the Road)” of the Vehicle Code.

The Rules of the Road arguably include investigating a “driving under the influence” violation. However, the peace officer in the case under consideration was not a CHP officer or “an officer on duty for the exclusive or main purpose of enforcing Divisions 10 or 11 of the Vehicle Code.” The only conclusion that could be drawn was that there was insufficient evidence of a §31 violation.

In the case in question, the trial court, prosecutor, and defense counsel took the position that false information provided to a city police officer on routine patrol is a violation of VC §31. If the law provided that it is unlawful to provide a city police officer with false information while investigating a possible driving under the influence offense, there possibly could have been a violation that would, however, have raised Fifth Amendment issues which are not addressed herein. One might conclude at a glance, as did the trial court and both litigants, that VC §31 prohibits providing



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any false information to any peace officer, but that, literally, is not the case.

The law is part of VC §625 and harkens to the earliest days of the California Highway Patrol, which was founded in 1929 and has patrol and law enforcement jurisdiction over all California highways, as well as certain administrative duties with reference to automobiles.

### Statutory Construction

In order to distinguish between the interpretations given in the trial court and the author's interpretation on appeal, the first element to look at is the unvarnished and straightforward meaning of the statute and its legislative history.<sup>3</sup>

Section 31 was unanimously passed and enacted by the state legislature in 1964. The obvious purpose of VC §31 is to prevent individuals from providing peace officers carrying out specific duties with false information while they are performing duties covered under the provisions of the Vehicle Code. Peace officers have a duty to investigate suspicious activities and crimes.<sup>4</sup> However, that duty is not detailed in the Vehicle Code.

"When language which is reasonably susceptible of two constructions is used in a penal law ordinarily that construction which is more favorable to the offender will be adopted," reads *People v. Ralphs*,<sup>5</sup> which was overruled on another point in *People v. Yates*.<sup>6</sup>

### Duty to Instruct on Materiality

In the author's case, the defendant was asleep in his car with the motor running when he was arrested for drunk driving and violation of VC §31 and §23152. The defendant told the arresting officer that he had consumed only two beers. However, evidence showed that his blood alcohol registered a higher reading than would have been determined had he only consumed two beers.

Over the prosecutor's objections, the court instructed that the false statement must be material because

materiality was presented when the arresting officer testified the two drinks answer is the routine answer given when a suspect is asked by a law enforcement officer how much alcohol had been consumed.

The court instructed on materiality based on the facts of the case. The evidence showed the defendant drove his vehicle to a location, parked with the engine running, and appeared to be asleep. After attempts to wake him failed, police were called and were able to awaken the defendant, who was then arrested.


The answer to the question about alcohol consumption was a denial of liability when the defendant responded by telling the arresting officer that he had two drinks.<sup>7</sup> Thus, materiality was, in fact, presented on that basis.

Materiality may be an implied element and a court may instruct on an implied element and is necessary to prevent a statute from being used to violate due process.<sup>8</sup> *People v. Lopez* maintained the implied element was necessary for substantive due process. "Although the sections are parallel, unlike section 834a, section 148 does not expressly make knowledge an element of the offense of resisting arrest. Defendant argues that substantive due process requires that knowledge be an implied element in the statute. Otherwise, people could be found guilty of resisting arrest without realizing that someone is in fact a police officer. This would be especially true for officers working under cover."

The Court of Appeal apparently agreed with the last sentence quoted.<sup>9</sup> The conviction was reversed for insufficient evidence and materiality was not ruled on.

### Call for Legislative Action

It is just a matter of time until §31 is again misapplied. Section 31 is itself a misdemeanor, but it is certainly inevitable that there will be a case where a defendant is arrested for a violation of §31 and arrested as the result of a search pursuant to the seizure of evidence linked to a felony.

The state legislature has an obligation to amend §31 to ensure that it only applies to misinformation concerning a motor vehicle itself, not about what its driver may or may not have consumed at some point. In short, some inquiry is legally permissible during a DUI stop; however, the information gained should not be used in a §31 prosecution. 

*The opinions stated are the author's only and do not purport to represent opinions of the SFVBA. Alternative views and comments are also welcome and will be considered for publishing in Valley Lawyer.*

<sup>1</sup> *Woolfs v. Superior Court*, 127 Cal.App.4th 197, 208 (2005).

<sup>2</sup> *People v. Lovejoy*, 12 Cal.App.3d 883, 886-887 (1970).

<sup>3</sup> *Mt. Hawley Ins. Co. v. Lopez*, 215 Cal.App.4th 1385, 1396-1397 (2013).

<sup>4</sup> *People v. Lovejoy*, *supra*.

<sup>5</sup> *People v. Ralph*, 24 Cal.2d 575, 581 (1944).

<sup>6</sup> 34 Cal.3d 644, 650, 194 Cal.Rptr. 765; 669 P.2d 1 (1983).

<sup>7</sup> *People v. Bellah*, 237 Cal.App.2d 122 (1965).

<sup>8</sup> *People v. Honig*, 48 Cal.App.4th 289, 334-336 (1996); U.S. Const. amend. XIV and Cal. Const. Art. I, §15;

*People v. Lopez*, 188 Cal.App.3d 592, 596 (1986).

<sup>9</sup> *People v. Honig*, *supra*.

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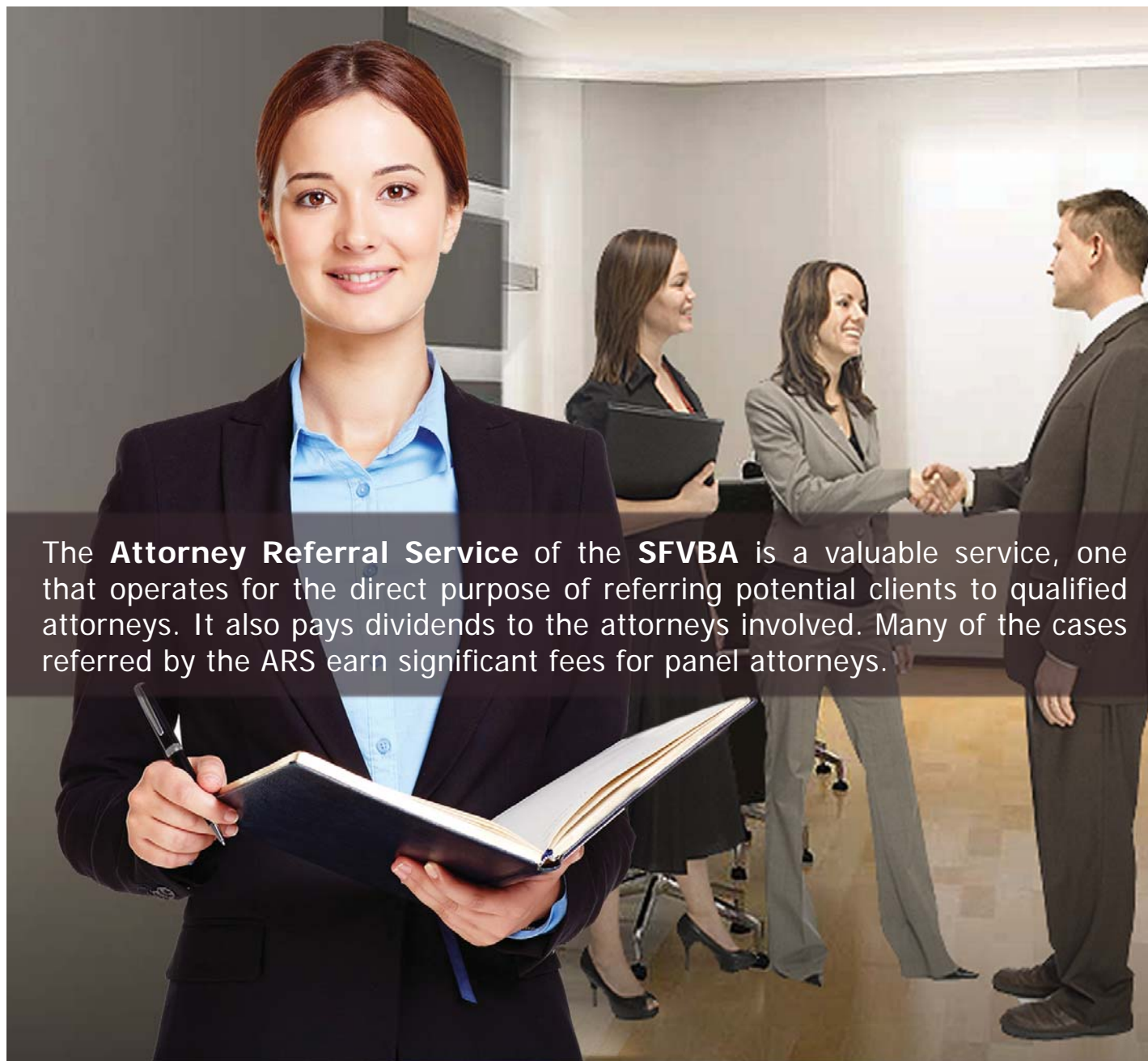
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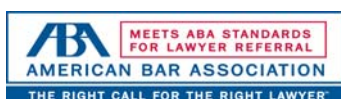
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**L**ISA HERNANDEZ HAD AN IDEAL CHILDHOOD, surrounded and cared for by loving parents. She attended college where she majored in business administration, and soon found herself with a rewarding career. In 2001, Lisa met a man, they fell in love, three years later they were married and Lisa soon became pregnant with her first child. Her life was pleasant, and she was happy.

Shortly after her second child was born, Lisa and her husband were having financial troubles and they found themselves arguing; at first it was once a week, then twice, then daily. The arguments were loud, often waking the children. Then it happened, one of their arguments escalated and he punched her. Lisa stood frozen, shocked by what just happened. Her husband apologized, claiming it would never happen again, but it did.

After that first blow, their arguments always turned physical and Lisa was often left bruised. Everything and anything set him off. She stayed away from friends and family, isolating herself for months, and then a year, to avoid questions or speculation about her husband. One evening Lisa's husband pointed a gun at her and she knew what she had to do. Lisa decided then to make a change. Her children were older now; they had witnessed the violence and she didn't want them to think their life was normal or healthy.

To avoid her husband finding out about her plans, the next morning Lisa went to her local library, where she accessed the internet and found Haven Hills, a domestic violence shelter in the Valley. From the library she called its 24/7 crisis hotline and a counselor assisted her in developing a safety plan, including collecting important documents such as passports, birth certificates, and bank account information, and phone numbers of friends and family. The counselor walked her through steps for she and her children to remain safe.


Haven Hills was able to place her in their emergency shelter after assessing her situation. Knowing her husband

was out of the house, she went home and collected everything she needed and left, never to look back. At Haven Hills, Lisa was provided with support and finally relief. She soon was able to make arrangements to stay with her parents. After a year, which included participation in Haven Hill's weekly group counseling programs, Lisa was in a much better place. She regained her self-confidence, returned to work, rented her own apartment, and continued to provide for her children.

Most importantly, she is safe and has regained control over her life, finances, and health. "I have gained so much in just the short time I was at the shelter," said Lisa. "[Haven Hills] provided me and my children with confidence and a path toward leading a healthy, happy life. I thank the staff and counselors, they are all so kind, courteous, respectful, and supportive; from the bottom of my heart, thank you."

### The VCLF at Work

Haven Hills is supported by the generous contributions of individuals, companies, and organizations. The VCLF is proud to support Haven Hills and amazing people like Lisa Hernandez. Lisa is one of over 3,500 women, men, and children Haven Hills helps every year. For nearly 40 years, Haven Hills has served as a lifeline for thousands of victims of domestic violence, providing safety, shelter, and support. Haven Hills helps them find the strength within themselves to break the cycle of abuse. They save lives, inspire change, and transform victims to empowered survivors.

Shame and fear prevent many victims of domestic violence from making the changes that could save their lives. In fact, victims who are murdered by an intimate partner are often killed soon after they leave their abuser, making that journey to safety that more dangerous. Haven Hills is dedicated to empowering victims to become survivors during those first 30 days and thereafter. 

### 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 Valley Community Legal Foundation of the SFVBA 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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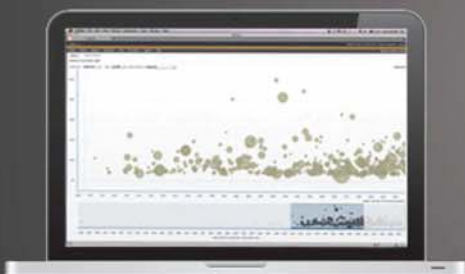
### **Who is Versatape?**

Versatape has been recording and marketing audio copies of bar association educational seminars to California attorneys since 1983.

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# Ready, Willing & Able

Dear Phil,

*I'm a relatively new attorney looking for any suggestions to help me get established in my practice. I went to an excellent law school and passed the bar exam on my first try. Despite that, I was unable to secure a position in any of the larger Los Angeles or Valley firms. I am now ready to start my career as a sole practitioner but don't even know where to begin. Can you help me?*

Sincerely,

Eager to Launch



*Illustration by Gabriella Senderov*

**D**EAR EAGER, CONGRATULATIONS ON PASSING the bar. That is one hurdle you managed to sail over. The next challenge is establishing your law practice. It is always a daunting prospect.

Statistics tell us that there are not enough jobs in the legal field to match the number of law school graduates each year. That is the sad reality of our times. But since you are certainly not alone in this category, have you considered joining forces with another new lawyer? You could still set up your own solo practice but could split the costs of renting an office and the accompanying expense of running an office.

Also avail yourself of everything your local bar association has to offer. You can be a brilliant attorney but if no one knows you, how will you secure clients to pay the bills, not to mention, pay back your law school loans? Marketing yourself is essential.

The San Fernando Valley Bar Association has many networking events that will not only introduce you to other new attorneys, but also more seasoned attorneys. Lawyers

and other professionals refer clients to attorneys they know and trust.

Another great place to meet other attorneys is at seminars. Even if the seminar is not in your chosen field, by attending difference meetings, you can come across attorneys who work in other law practice areas and are looking to refer those clients out of their particular area of practice.

To help all new attorneys, and not-so-new attorneys looking to revitalize their practice, the San Fernando Valley Bar Association is presenting a free seminar on October 21 at 12:00 noon on "Planning for Sole Practitioners." This lunch seminar sponsored by City National Bank will provide the ins and outs of financial planning for solo practitioners. This will be great a first step in planning what we hope will be your very successful journey down the legal path.

Best of luck,

*Phil*

**Dear Phil** is an advice column appearing regularly in *Valley Lawyer Magazine*. Members are invited to submit questions seeking advice on ethics, career advancement, workplace relations, law firm management and more. Answers are drafted by *Valley Lawyer's* Editorial Committee. Submit questions to [editor@sfbva.org](mailto:editor@sfbva.org).

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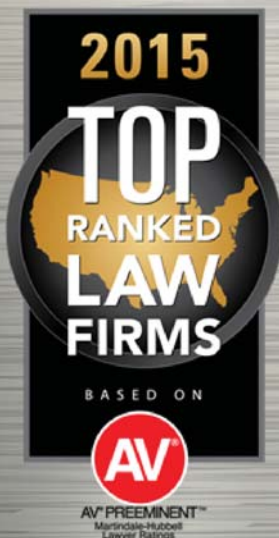
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