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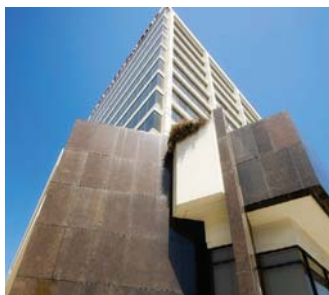
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VALLEY LAWYER

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Correction: SFVBA Board of Trustee Natasha Dawood is not a member of the Beverly Hills Bar Association, as it was incorrectly stated in our July/August issue.





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TAMILA JENSEN
SFVBA President

ON SEPTEMBER 20, 2008, the San Fernando Valley Bar Association enjoyed its 82nd Installation Dinner and Annual Membership meeting. I am merely the latest in a long line of presidents and am looking forward to building on the work of so many other bar leaders, trustees and members.

As one the oldest voluntary bar associations in California, the SFVBA is also is one of the largest with a membership of about 2,100. It was formed at about the same time as the State Bar came into existence as a unified bar. The SFVBA has been devoted to serving the lawyer members, the community, and the courts since its inception. For example, the SFVBA was active in bringing the first courthouse to the north Valley, which were the trailers that still linger behind the North Valley District courthouse and which served the Valley for many years.

Currently, our 2,100 members are served by 11 sections (including Probate, Workers' Compensation, Litigation, ADR) and as new areas of the law develop, we add sections as necessary to meet the needs of our members.

At the board level, there are about 12 committees, including ARS, Programs, Bench-Bar, and many more. All members are welcome to participate in sections and committees. We encourage you to join us for one event or as many as your time and interest allows.

The Board of Trustees welcomed five new trustees in September: Natasha Dawood, Brent Finch, Carmen McDonald-Goldberg, Lisa Miller and John Stephens. I and the rest of the Board look forward to working with them. Please keep in mind that the Board meets every second Tuesday. Members who have questions or just want information are welcome to call any member of the Board.

Sue Bendavid had a very successful year as president, and just as she built on and continued the work of those who came before her, I will have the privilege of following in her foot steps and building on her work. A lot has happened this past year and we will follow up to make these innovations a lasting success. For example, as part of our commitment to diversity, an Explorer

Post was formed to educate teenage students about the law and judicial system. Twenty young people are participating this year.

We adopted Maurice Sendac Middle School and committed to support the school in bringing programs about the law to the students on an ongoing basis and teaming with them to promote the law, civil society, and careers in law and justice.

We have also served the community in many ways. This year, the *Daily News* added an "Ask a Lawyer" column in which ARS panel members are answering questions on various legal issues posed by lay people through the newspaper.

This has been a busy year in our relationship with the courts. We worked with the Los Angeles Superior Court on the creation of a new PowerPoint presentation to be shown to jurors when they report for jury service. This will greatly enhance the jurors experience when it is launched.

Our Bench-Bar Committee meets on a regular basis with our Valley judges and supports the court through volunteer programs, including VAST, the Probate Attorney Settlement Conference Panel, and the revitalized Temporary Judge Program. We also participate in the state-wide Bench-Bar Coalition under the auspices of the Administrative Office of the Courts. SFVBA members go to Sacramento twice a year to lobby the legislature on matters of great concern to our courts.

Direct services to members also have grown with new benefits, including Fastcase for legal research. *Valley Lawyer* is a full-fledged magazine. Our first annual Golf Tournament took place on October 13.

The SFVBA is active on the state and national level as well. We have one delegate to the ABA's House of Delegates. We also have 12 delegates and 12 alternates to the Conference of Delegates of California Bar Associations (CDCBA), which met in late September in Monterey. It is now time to start working on resolutions for the 2009 meeting in San Diego. Anyone wanting to serve on the delegation or with issues concerning the laws of our state can contact me or any member of the delegation. This is a chance to have a voice on issues that matter to you.

The SFVBA also maintains fruitful relationships with other entities including the Valley Community Legal Foundation. Every year we enjoy the Law Day Gala. After years of work by the Foundation and others, the new children's waiting room in Van Nuys opened in October. This holiday season we will collect new toys and books to donate to the children's waiting room. Details of suitable toys and books will be distributed soon.

We also have affiliate relationships with many bar associations including the Los Angeles County Bar Association, Santa Clarita Valley Bar Association (which has a member on our Board of Trustees), Mexican American Bar Association, Italian American Lawyers Association, and the Multicultural Bar Alliance.

This year, we will build on the work of those who went before us. I ask all our members to support the San Fernando Valley Bar Association, and the community, and this year especially, to support our courts and our judges. ▲

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From the Editor

For question, comments or candid feedback regarding *Valley Lawyer* or *Bar Notes*, please contact Angela at (818) 227-0490, ext. 109 or via email at Angela@sfbva.org



ANGELA M. HUTCHINSON
Editor

Dear Members,

By now you have had a chance to review *Bar Notes*, our new monthly (maybe semi-monthly) electronic newsletter. If you would like to be included in the "Members in the News" section, or have other content that is suited for an issue of *Bar Notes*, please email me your submissions by the 15th of every month (no later!)

In addition to our e-newsletter launch, you will soon be receiving e-postcards to serve as event reminders with an easy registration process, as well as e-news releases to keep you abreast of what's happening at the Bar.

This month's issue of *Valley Lawyer* focuses on public service and advocacy. Strengthening public service accountability is critical in times of a strained economy. The Bailout Bill is an example of why it is mandatory for

the public to hold our government accountable. In times of scarce monetary resources, stagnant household incomes and increasing necessary expenditures, the role of our government is to be an advocate for the public. However, this does not excuse individuals or businesses from the responsibility of spending within means. And when headed down a road of financial trouble, one must have confidence to seek advance help through various service-orientated organizations.

Equally as important of our government serving the public, is the public serving one another. Whether volunteering time for a political campaign, donating time or money to a local charity, or contributing resources and other support to non-profit organizations, advocacy is what continues to showcase America's ability to solve problems and affect change.

A popular biblical metaphor refers to the importance of bearing fruit on branches in order to produce a quality vine. In terms of public service and advocacy, our government is like a vine with members of society as the contributing branches. If we do not learn to produce fruit by serving one another, we will neither be of value to our communities nor society. Often, we tend to take pride in our past service, but I encourage you to look forward. We the people (San Fernando Valleyians) should celebrate our Bar Association's tradition by serving our community today, tomorrow and in the future. ✎

Have a fruitful month!

Angela M. Hutchinson



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**Articles do not always have to focus on calendar topics, but should be based on author's legal expertise or interests.*

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A Program to be Thankful for in Bleak Times



ROSIE SOTO
Director of
Public Services

THE SFVBA HISTORY BOOK, *Serving the Community, The San Fernando Valley Bar Association's First Seventy-Five Years*, describes the 70's as a time of transition and expansion for the SFVBA and ARS (previously known as LRIS). The leadership looked for ways to affirm its commitment to providing services to the greatest number of people in the community.

In 1977, with a public service goal in mind, the SFVBA Board of Trustees adopted the Modest Means Program in connection with Neighborhood Legal Services (NLS) of Los Angeles County. Modest Means was designed to provide access to quality legal services for lower income individuals.

The average price of a stamp in 1977 was 13¢. The average price of milk was \$1.44. The cost of a gallon of regular gas was 67¢. The average price of a home was \$54,000, and unemployment was at 7.1%. Thirty-one years later, the price of a stamp is 42¢. The cost of milk is high and in line with soaring consumer cost in every isle. Currently, the 2008 housing outlook remains grim. People who own Hybrids are envied because fuel prices have soared. The jobless rate has hit the highest point since 2003.

There are drastic changes in people's abilities to pay for legal services. Clients can no longer count on credit and home equity lines. For many, the only way they can come up with attorney fees is the cash in their pockets.

The Modest Means program allows clients to pay reduced hourly fees capped at \$175 per hour and a cap on total fees of \$3,500 in family law cases. Fees in other modest means panel areas are reduced flat rates for defined legal services regarding landlord/tenant matters, bankruptcy and estate planning. The ARS does not collect a percentage of fees earned on modest means clients as a way to further assist these clients and the attorneys who represent them.

Modest Means panel members meet the requirements for the particular area of law in which the client seeks services and agree to abide by all ARS rules and rates set forth.

Last fiscal year, the ARS referred close to 3,000 cases. That number is

about thirty percent of the actual inquiries received by the ARS. The Modest Means program received an estimated 150 applications from clients seeking modest means services and about 20 percent of those applications were referred. ARS also referred close to 100 Limited Scope cases, another ARS program that helps clients afford legal services.

In the last few months, about 36% of clients referred by the ARS to panel members resulted in a consultation only. When surveyed, clients indicated an attorney's fee as a top reason why they did not hire the attorney. Such statistics suggest the need for expansion of the 31-year program.

Everyone is being affected by the difficult economy. Although thankful for having the financial and educational resources and personal resilience to manage, many modest means clients

are facing real devastation in their lives as they lose their jobs, homes, and health. At the same time, public assistance is being severely reduced or eliminated. As the SFVBA's history book shows the SFVBA and ARS membership has always reached out even more during hard times and disasters to provide legal guidance and representation.

The feeling of longtime ARS Modest Means panelists is that giving back to the community is rewarding on many levels. Clients like to do business with attorneys who are doing well. In the eyes of many clients an attorney with time to give back to the community must be successful. Participation in the Modest Means program gives individuals of modest income hope in resolving their legal matter and quite possibly a reason to be thankful this year before their Thanksgiving meal. 🍗

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2008 CONFERENCE OF DELEGATES UPDATE

By Cynthia Elkins

Co-Chair, SFVBA Conference of Delegates

THE CONFERENCE OF Delegates of California Bar Associations (CDCBA) convenes annually each fall in conjunction with the State Bar's Annual Meeting – this year in beautiful and sunny Monterey. The CDCBA serves justice in California by bringing a diverse group of attorneys together to develop non-partisan solutions to law-related issues for the benefit of Californians.

The San Fernando Valley Bar Association was proudly represented by our determined Delegation which included Tamila Jensen, Patricia McCabe, Anne Adams, Bernie Grossman, Steve Holzer and Cynthia Elkins. Marlene Seltzer, Louis Michelson and Roger Franklin, also dedicated members of the committee, were unable to attend this year's conference.

During this year's conference, the SFVBA was the proud sponsor of four resolutions and three were approved in principal. Two resolutions submitted by committee member Patricia McCabe addressing concerns in the Funeral Services industry were approved in principal without debate. McCabe's resolutions sought to amend B&P Code §7685 and 7685.2 to require written disclosure of terms of interest charges where funerals are paid for in installments.


Another successful resolution that was approved in principal was submitted by Co-Chair Roger Franklin. Franklin's resolution sought to amend CCP §1161 to require 60-day termination notice for tenants of foreclosed manufactured, mobile or floating homes for more than one year. Last year, Franklin also had a resolution approved and assisted in the lobbying effort to get the resolution passed into law by Sacramento.

The fourth resolution, submitted by Steven W. Murray, entitled "Insurance: Definition in Policies," sought to amend Insurance Code Section 41 to state that all terms in an insurance policy are governed by the terms as defined in the Insurance Code. Regrettably, the CDCBA disapproved this resolution and it was not passed – but there is always next year.

In addition to SFVBA's resolutions, the Bar endorsed a "friendly amendment" to the Beverly Hills Bar Association's resolution entitled "Civil Action Mediation" to amend Code of Civil Procedure Sections 1775, 1775.8, 1775.13 and 1775.14.

If any members of the SFVBA wish to become involved with the Delegation,

please contact Roger Franklin at rogerfranklin@prodigy.net.

"The Conference of Delegates is a great way to network with your colleagues, expand your knowledge about the law, and seek to make changes that affect the laws important to your practice area," says Co-Chair Cynthia Elkins. 

One Person Can Make a Difference



PATRICIA L. MCCABE

I HAVE A CLIENT WHO CAME to my office seeking help with her Social Security claim. During my representation of this client, I produced documents to the Social Security Administration. In those documents, there was a burial services contract and all related documents. My client was disabled and had prepaid her burial needs as her health was failing.

I noted on the burial services contract that the terms were listed. However, in calculating the payments over time, I noted that the interest charged was considerable. I looked through the remaining documentation to find the notice to be provided to the consumer by the institution, under the Truth in Lending Act, Regulation Z, relating to the interest rate. There was no notice.

My client had no idea how much interest they were paying on the contract. I know that they are not alone. This was not the first client who had entered into a contract for such services and was unaware of the cost of the credit extended. Often these prepaid burial contracts are sold to the disabled or elderly.

I researched what information was legally required to be on the burial services contract. Under the Business and Professions Code, Section 7685 et. seq., every funeral director is required to list specific services they are offering.

However, this Code section did not address interest rate. Perhaps when this section of the Code was written interests rate was not an issue. However, today it is an issue. I believed that it should be printed on the contract.

I took matters into my own hands and drafted two resolutions for the Conference of Delegates for the San Fernando Valley Bar Association. The two resolutions addressed the two parts of the B&P Code which delineated the burial contract. The resolutions were discussed and then sponsored by our Delegation and submitted to the Conference of Delegates of California Bar Associations (CDCBA).

Bar Associations from all over California researched, debated and then took a position on the two resolutions. On September 26, 2008, the CDCBA convened and considered these resolutions along with 114 other resolutions.

These two resolutions were supported and approved by the entire CDCBA. I have requested that these resolutions be sponsored by the CDCBA lobbyists so that the Business and Professions Code can be changed. Hopefully, at the end of the day, an elected representative will champion legislation to change the Code. One person perhaps can make a difference.

The San Fernando Valley Bar Association's

VCLF Partners with Haven Hills, Inc.

By Sarah J. Berdine



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*Stop Domestic Violence, Build Self Reliance,
Save Lives*

FOR PROFESSIONALS IN THE legal arena, the court system is familiar and orderly. For victims of domestic violence, it is a very scary and intimidating environment. When the victims enter the Haven Hills' Crisis Shelter, they are frightened, traumatized and overwhelmed with not knowing what steps to take next to keep themselves and their children safe.

A critical service provided during the shelter stay is the development of each victim's safety

plan. For many years, the San Fernando Valley Bar Associations' Valley Community Legal Foundation (VCLF) has provided Haven Hills with

"On behalf of our clients, Haven Hills thanks the Valley Community Legal Foundation for their generosity and continued partnership. It does make a difference."

significant grant dollars. These funds enable Haven Hills' counselors and

advocates to help the victims understand and navigate the legal process with a higher degree of confidence and success for protecting themselves.

For the women in the Haven Hill's 30-day Crisis Shelter, this help is invaluable. Intake counselors begin assessing the need for a restraining order with each victim shortly after arrival. Most victims are scared and do not know what to expect. Sometime, language barriers make the process even more challenging. In addition, the victims are often unsure of what questions to ask, and they do not know how to obtain or prepare the restraining order application, or what to expect in a court room setting.

The Haven Hills' case managers and advocates assist with preparation of forms and role playing of court room procedures to help familiarize clients with what to expect. Also, counselors develop questions for the victims to ask and provide them with an understanding of the client's rights before going to court.

Additionally, the VCLF financial support has been instrumental in the development of the Haven Hills' Court Advocacy program, which enables the victim to be accompanied on their court date for additional support when facing the batterer for the first time after escaping the abuse. ♡

Sara J. Berdine
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Videoconferencing:

The Attorneys Newest Productivity Tool

By Stan Reisch



MANY ATTORNEYS WORK very long hours, as much as 60 to 70 hour per week, in developing their practices. This, often times, does not leave enough time for family and leisure. Balancing work and life is one of the most discussed topics within the legal community. Attorneys are now looking for ways to improve their productivity in order to make more time for family and leisure.

Videoconferencing has been around for quite a while. Savings in time, travel and costs can certainly be attributed to it. Now, attorneys can do mediations, arbitrations, negotiations, settlement conferences, interviewing expert witnesses, along with meetings, briefings and collaborations with clients and colleagues, from anywhere in the country or around the world, without leaving their office, right from their desk. When it comes to mediations and arbitrations, videoconferencing saves on time and travel, is cost effective and as attorneys and mediators know, getting the ultimate decision makers together greatly increases the chances of settlement.

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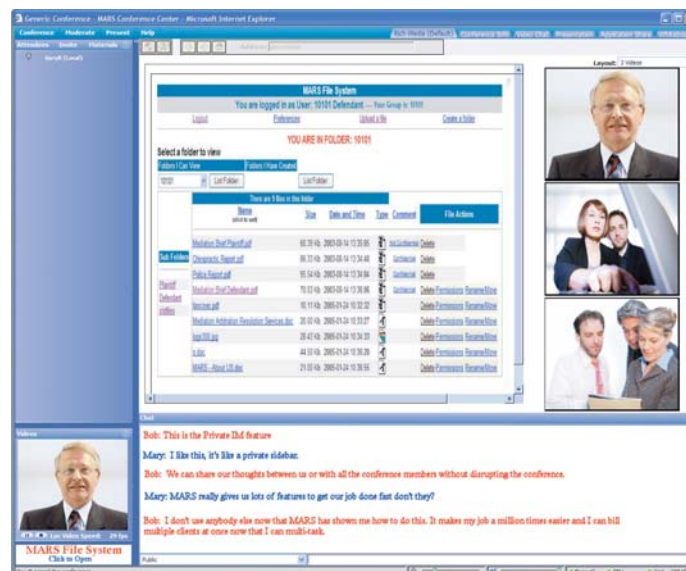
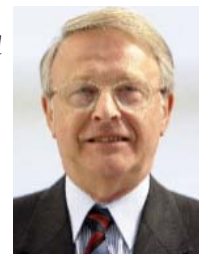
legal issues without going to court. Attorneys can settle cases in days, rather than months or even years. They can also take on more cases, including smaller matters that are not cost-effective to litigate conventionally. The cost to use videoconferencing is a fraction of what it would cost to litigate a case in court.

The Center for Alternative Dispute Resolution Education, Inc. (CADRE) is looking for participants to take part in what will be a groundbreaking study entitled "Videoconferencing in the Practice of Law, The New Frontier!" to determine the usefulness, effectiveness and productivity of using videoconferencing.

Videoconferencing specifically developed to serve the legal community is a productivity tool that is available to attorneys right now. By integrating it into their practices they will be able to deal with the work-life balance issue and assure themselves that they will have more time for leisure activities and for their families. 📞

Stan Reisch is President and CEO of Mediation Arbitration Resolution Services, Inc., which has a "Virtual ADR" program that

offers videoconferencing. Considered an expert in the development of videoconferencing systems for the legal profession, Reisch can be reached at (818) 865-8858 or sreisch@resolvemydispute.com.



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MCLE ARTICLE AND SELF-ASSESSMENT TEST

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 23.

Keeping Exempt Organizations Exempt*

By Marshall A. Glick

Charity

*First published by California Lawyer magazine in July 2003, and updated for this article.

AT SOME POINT IN THEIR careers, many attorneys are called on to assist their clients, friends, or some local volunteer group by securing tax-exempt charitable status under IRC §501(c)(3). Although many are willing to donate their time occasionally to a worthwhile cause, few have much experience in nonprofit law. Fewer still have more than a rudimentary understanding of the requirements of the formation and exemption process. And many practitioners simply do not realize that, with their well-meaning actions, they are cracking open a Pandora's Box of complex tax and legal issues that could leave them vulnerable to creating unwitting errors and omissions.

Consider the following scenario: An attorney formed a nonprofit organization, XYZ Charity, for a client interested in benefiting low-income Los Angeles residents. The attorney struggled through the arduous and time-consuming process of filing articles of incorporation with the secretary of state, Form 1023 with the IRS, and Form

3500 with the Franchise Tax Board (FTB) – all of which are required to attain XYZ's exempt status on the federal and state levels.

After responding to some IRS questions, XYZ's officers eventually received determination letters from the IRS and the FTB conferring tax-exempt status on the organization. Attorney and client were justifiably delighted. Since then, XYZ has been operating in the public interest, and the targeted low-income community in Los Angeles has been served well. And XYZ has also received substantial public donations over the years.

Attorney blithely assumes that all is well. But that assumption is shattered by a frantic call from the client informing the attorney that the IRS and the FTB are threatening to revoke XYZ's exempt status – and that the California Registry of Charitable Trusts (the Registry), a division of the California Department of Justice, has kicked off an investigation. The exempt status may be revoked because of a number of alleged compliance failures, including the

charity's failure to file forms with the Registry, the IRS and the FTB.

To make matters even more grim, XYZ's president says he has just received an order to cease and desist from all fund-raising from the Charitable Services Section of the Los Angeles Police Commission, citing the organization's failure to file additional paperwork before beginning its activities in the city.

A chill runs down the attorney's spine when trying to recall what instructions were given to the client back in those hopeful days of seeking nonprofit status for XYZ. When the file is retrieved, the attorney is unable to find any notes or copies of any correspondence about any of these matters.

Ounces of Prevention

The hope is that this nightmare scenario will never haunt those who form and advise private foundations and public charities. Complying with all federal, state and local governmental filing requirements is essential to retain

exempt status and avoid severe penalties and other adverse consequences, both to the attorney who is involved and to the exempt organization.

In truth, attaining federal and state tax-exempt status reflects only the tip of the iceberg of compliance requirements. After that, a nonprofit organization must also satisfy a number of additional federal, state and local requirements – most of which are ongoing from year to year.

As part of the formation process, inform the client of all applicable federal, state and local filing and compliance requirements. Though there may be no legal obligation to continue rendering services to an exempt organization after it is formed, the standard of practice in nonprofit law requires attorneys to inform their clients about the additional compliance requirements. And for evidentiary purposes, it is always best to give these instructions in writing. Failing to provide such basic information may leave attorneys open to a legal malpractice action based on errors and omissions.

A Look at the Most-Often Overlooked

The adage that an ounce of prevention is worth a pound of cure is particularly relevant in nonprofit law. After the IRS, Registry or FTB begins an investigation of alleged compliance failures, it can be very difficult, time-consuming, and costly to backtrack and cure any deficiencies. The most significant and most often overlooked requirements for maintaining a charity's continuing exempt status are highlighted here.

File Form CT-1 with the Registry.

Most nonprofit organizations, including corporations, associations, and trusts holding assets for charitable purposes or doing business in California and carrying out activities for the benefit of the public, are required to file a completed Form CT-1 with the Registry. Only corporations organized primarily as hospitals, schools or religious organizations are exempt from this requirement. Gov't C §12583.

Form CT-1, last revised in June 2007, must be filed in many cases long

before the IRS issues the federal determination letter conferring exempt status. A copy of Form 1023 as filed with the IRS for exempt status must be submitted with Form CT-1. The deadline for filing is 30 days after the charity first receives assets such as cash or property donations. After receiving Form CT-1, the Registry will issue a state charity number. Many prospective donors may ask an organization for this number before agreeing to make a donation to it. There is no federal "Charity number" and exempt organizations are identified on the federal level by their employer identification number or "EIN."

File Form RRF-1 with the Registry annually.

All charitable nonprofit corporations, associations, or trusts holding assets for charitable purposes that are required to register with the Registry are also required to file Form RRF-1 each year. Organizations must meet this requirement even though they did not receive any assets, have not filed Form 990 with the IRS, or are on extended reporting as described below.

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A few California nonprofits are exempt from this filing requirement. They include governmental agencies; religious corporations; certain cemetery corporations; political committees; charitable corporations operated primarily as religious organizations, educational institutions, or hospitals; certain licensed health care service plans; and corporate trustees subject to the jurisdiction of the California Superintendent of Banks.

Form RRF-1 must be filed within four months and 15 days after the close of the organization's accounting period—either calendar or fiscal year-end. For example, a calendar year organization must file no later than April 15 of the following year. Although the regulations require filing for the most recent full accounting period, new organizations should also file within four months and 15 days of their initial accounting period rather than risk severe penalties for filing late.

According to legal strictures, no extensions are allowed for any Form RRF-1 filing, regardless of the circumstances. Failing to file on time each year—even for years in which there

have been no charitable receipts and no assets—may result in the FTB revoking the exempt status and imposing a possible minimum tax of \$800, interest, fines, and filing penalties. Gov't C §12586.1. However, despite its own prohibition on issuing extensions, the Registry is currently processing late filed Form RRF-1's when there is good cause and an explanation of why the filing was late.

Though most nonprofit organizations normally need not pay a filing fee, a \$25 fee is required for accounting periods in which total assets exceed \$100,000.

File Form 990 (or 990-EZ or 990-N or 990-PF) with the IRS annually.

If the nonprofit organization is other than a church, a state institution, an instrumentality of the United States, a stock bonus, a pension or profit-sharing trust, or certain other excepted entity, and normally has gross receipts of \$25,000 or less, commencing with tax years ending in 2008 it must electronically file Form 990-N, Return of Organization Exempt From Income Tax. For tax years beginning in 2008, if an organization has gross receipts less than \$1,000,000 and total assets at the end of the year less than \$2,500,000, it may choose to file Form 990-EZ, Short Form Return of Organization Exempt From Income Tax, instead of Form 990. For exempt organizations having gross receipts more than \$1,000,000 and total assets more than \$2,500,000, Form 990 (as revised for 2008) must be filed.

The following schedule sets forth the modified thresholds for filing Form 990-EZ during the transition period:

May file 990-EZ for:	If gross receipts are:	And if total assets are:
2008 Form (generally filed in 2009)	<\$1,000,000	<\$2,500,000
2009 (generally filed in 2010)	<\$500,000	<\$1,250,000
2010 and later Forms	<\$200,000	<\$500,000

An organization's gross receipts are defined as the total amount received from all sources during its annual accounting period without subtracting any costs or expenses. Private foundations continue to file Form 990-PF, but this soon may also change.

Organizations that receive a Form 990, 990-EZ, 990-N or 990-PF package,

which the IRS generally mails to nonprofits as a matter of course, should file the return even if they are not required to do so, based upon the amount of their gross receipts for the applicable year. They should also check the box in the heading of the form to indicate that gross receipts are normally not more than \$25,000.

There is no filing fee for any of the 990-derived forms. The deadline for filing Form 990 (or one of its versions) is the 15th day of the fifth month after the organization's accounting period ends (i.e., May 15 for calendar year filers). If the regular due date falls on a Saturday, Sunday or on a legal holiday, filing should occur by the next business day. A business day is defined as any day other than Saturday, Sunday or legal holiday. Unlike Form RRF-1, the due date for Form 990 may be extended. The IRS grants an automatic three-month extension to those who file Form 8868, Application for Extension of Time to File an Exempt Organization Return, prior to the original due date. After that, Form 8868 may also be used to apply for one additional three-month extension if the original extension was insufficient and there is a showing of reasonable cause for the additional extension.

A common omission in filing is the inadvertent failure to attach Schedule A, Organizations Exempt Under Section 501(c)(3). Schedule A must be filed with Form 990 or Form 990-EZ if a 501(c)(3) organization is not a private foundation and has gross receipts exceeding \$25,000 for the reporting period.

Failing to file Form 990 and Schedule A on time, or filing incomplete or inaccurate documents, may result in a fine of \$20 a day, not to exceed the lesser of \$10,000 or 5 percent of the gross receipts of the organization for the reporting year. For larger organizations, with annual gross receipts exceeding \$1,000,000, the penalty for late, incomplete, or inaccurate filing is \$100 a day—with a maximum penalty of \$50,000 for any one return.

Form 990 is lengthy and complex, and an organization's accountants might be better equipped to prepare it. The attorney's responsibility is to inform the client of the Form 990 (or one of its

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derivatives) filing requirement and to clarify (in writing) who will have the responsibility for preparing and filing this form in a timely manner.

File Form 199 with the Franchise Tax Board.

Form 199, California Exempt Organization Annual Information Return, is filed with the FTB and is the state equivalent of IRS Form 990. It differs, however, from the federal form in many ways, including but not limited to a \$10 filing fee – which is increased to \$25 if Form 199 is not filed by the original due date. However, the filing fee is not required for most exempt organizations that receive public funding or are exclusively religious or charitable.

Except for private foundations, organizations with gross receipts that normally do not exceed \$25,000 are not required to file this form. Other organizations exempt from filing include exclusively religious organizations; state-controlled organizations; certain political organizations; qualified state tuition programs; education IRAs; and most stock bonus, pension, or profit-sharing trusts.

Like Form 990, Form 199 must also be filed by the 15th day of the 5th month (i.e. by May 15 for a calendar year organization) after the end of the organization's accounting period. If it is not filed by its original due date, and if the organization was in good standing in California on the original filing date, an automatic extension of up to seven months is provided. There is no need to apply for the extension. If the organization was not in good standing, then no extension applies.

Organizations that fail to file the return by its original or extended due date may be required to pay a penalty of \$5 a month, not to exceed \$40, until the return is filed. The FTB may waive the penalty on a showing of good cause for late filing. Form 199 is not nearly as formidable as Form 990, but the client's accountant may still be the person who is best qualified to prepare it.

File Notice of Intention. In XYZ's haunting tale of noncompliance, the charity also failed to file a Notice of Intention with the Charitable Services Section of the Los Angeles Police Commission.

All charities that wish to solicit public donations in Los Angeles are required to file this form at least 15 days before the start of each fund-raising campaign or special event. A Report of Results of Activity must also be filed within 30 days after the special fund-raising event. The report discloses receipts, expenditures, and distribution of net proceeds from the public solicitation. Los Angeles Mun C ch IV, art 4, §§44.00-44.15.

Check the local municipal ordinances for similar filing

requirements for organizations operating in other locales.

Resurrecting Fallen Organizations

All may not be lost for nonprofit organizations that fail to comply or fall out of compliance. The facts and circumstances of each case usually determine whether exempt status can be preserved or resurrected. Absent actual fraud, gross negligence or willful misappropriation of charitable funds,



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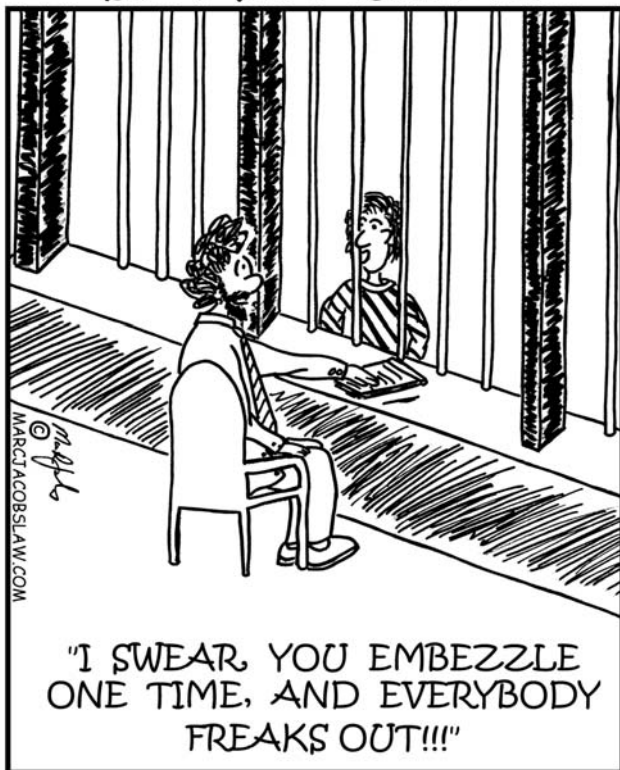
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ABOVE THE LAW,

By Marc Jacobs



many organizations can be resuscitated and their exempt status retained through candid disclosures to the IRS, the FTB, and the Registry.

Retaining exempt status often depends on whether or not the organization is voluntarily willing to come forward with an admission of its prior compliance failures. Even clients who have neglected or repeatedly failed to file the requisite forms with the requisite authorities will rarely lose exempt status, as long as the omissions are voluntarily and fully disclosed to the proper agencies. However, those agencies may impose substantial penalties for late filing.

The problem most frequently encountered is the failure to maintain complete and accurate records of all expenditures and all revenue, such as donations and other income. At the outset, inform the client in writing of the importance of good, complete, and accurate record keeping and of the need for timely and complete filings on the federal, state and local levels. ⚡

*Marshall A. Glick practices nonprofit law in Encino. He is the author of *Forming the Exempt Organization* (CCH, Inc., 2002, updated in 2006). He can be reached at glicklaw@sbcglobal.net or visit his website at www.glicklaw.com.*



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Where to Obtain Pertinent Information and Forms:

Forms CT-1 and RRF-1

Call the Registry at (916) 323-0786 or from its website at www.caag.state.ca.us/charities under the subcategory Forms.

Forms 990, 990-EZ, 990-PF, 8868, and Schedule A

Call the IRS at (800) 829-3676 or downloading them from www.irs.gov under Forms and Publications.

Form 199

Call the California Franchise Tax Board at (800) 852-5711 or visit www.ftb.ca.gov under All Forms and Publications.

MCLE Test No. 5

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. Only federal and state tax exemptions need be obtained to secure exempt status for an organization under IRC §501(c)(3) that will provide charitable services in California.
True
False
2. The Registry of Charitable Trusts is a division of the California Department of Insurance.
True
False
3. The IRS defines an exempt organization's gross receipts as the total received from all sources during its annual accounting period, minus costs and operating expenses.
True
False
4. Most California charities must file with the Registry of Charitable Trusts.
True
False
5. All charities operating in California are required to file Form CT-1 annually with the Registry of Charitable Trusts.
True
False
6. Form RRF-1 must be filed each year by all charities operating in California.
True
False
7. Most charities operating in California that have annual revenue exceeding \$25,000 are required to file Form 990 with the Franchise Tax Board.
True
False
8. Most charities operating in California with annual revenue exceeding \$25,000 are required to file Form 199 with the Franchise Tax Board.
True
False
9. There is no filing fee for any Form 990 filed with the IRS.
True
False
10. The deadline for filing Form 990 is five months and 15 days after the end of the organization's accounting period.
True
False
11. If the nonprofit organization has no revenue, there is no need to file Form RRF-1 with the Registry of Charitable Trusts.
True
False
12. While no extensions are technically allowed for late filing of Form RRF-1 with the Registry of Charitable Trusts, the Registry sometimes processes late filings if good cause is shown for the delay.
True
False
13. Retaining exempt status for organizations that have fallen out of compliance often depends upon whether the organization has voluntarily come forward with an admission of prior inadvertent compliance failures.
True
False
14. Failure by exempt organizations to maintain complete and accurate records of expenditures and revenue commonly leads to compliance failures.
True
False
15. Organizations that unintentionally fail to comply with applicable IRS filing requirements are subject to fines and penalties not exceeding \$5,000.
True
False
16. To avoid malpractice issues, an attorney who forms a nonprofit organization for a client should inform the client in writing of all applicable federal, state and local initial and ongoing filing requirements.
True
False
17. Organizations with total assets of less than \$250,000 at the end of their accounting periods qualify to file Form 199-EZ.
True
False
18. In most cases, Form CT-1 should be filed with the Registry of Charitable Trusts prior to receiving the IRS determination letter that confers tax-exempt status.
True
False
19. A \$25 filing fee is required for nonprofit organizations filing Form RRF-1 and having total assets in excess of \$100,000.
True
False
20. The annual period for filing Form RRF-1 with the Registry of Charitable Trusts is the same as the filing period for Form 199 with the Franchise Tax Board.
True
False

MCLE Answer Sheet No. 5

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.
4. Mail this form and the \$15 testing fee for SFVBA members (or \$25 for non-SFVBA members) to:

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METHOD OF PAYMENT:

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5. Make a copy of this completed form for your records.
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ANSWERS:

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

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

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SCVBA President

VOTING IN THE 2008

General Election on November 4 is an opportunity for Americans to perform one of the most important and essential services to public good. When voters take the time to complete an election ballot, they become apart of making history in America.

Every U.S. citizen has the power to influence the outcome and future of the country, individual states, and local communities. Americans have the right and obligation to have a voice heard through the election process. As an active and contributing force in the community, it is essential to make an informed decision about the candidates and voice that opinion at the polls.

Californians not only have the freedom to vote on the national level, but also there are 12 ballot measures to consider. Each measure will have a

"Always vote for principle and you may cherish the sweetest reflection that your vote is never lost."

~ John Quincy Adams, 6th U.S. President

dramatic imprint on the state. Now is the time to become educated about the issues, get to know the local candidates and what they stand for, and develop an understanding of what each proposition means to California's future.

The Santa Clarita Valley Bar Association is also in the midst of its election for board members. All of the candidates have each contributed substantially to the growth of the association. They have given of themselves to make each event memorable and a benefit to the membership, the community, and the legal profession. To meet and greet the newly elected board members, please reserve a space to attend the SCVBA installation dinner at 6:00 p.m.

on November 20, 2008 at the Tournament Players Club in Valencia.

The SCVBA would like to urge each and every person reading this article to get involved – take the first and easiest step in public service – vote! 🗳️

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SFVBA Sponsors Televised Forum on Proposition 8

Board Urges Members to Support
Full Recognition of Civil Rights
for All Citizens

IN ITS EXPANDING EFFORT TO bring timely educational programs to the community as well as members, the SFVBA and its Attorney Referral Service sponsored a forum on October 10, 2008 on Proposition 8, televised by Time Warner for multiple broadcasts on its public access channel.

Proposition 8 is an initiative on the November 4th California ballot entitled "Eliminates Right of Same-Sex Couples to Marry Act." If the proposition passes, the California Constitution will be changed to eliminate the right of same-sex couples to marry.

Myer Sankary, mediator and former trustee, served as the moderator of the one-hour program. Sankary asked direct and thought-provoking questions of the four participants, who included from Yes on 8, Kevin Hamilton and Wayne Baldwin, Esq.; while Aaron Bloom, Esq., from LoveHonorCherish and Ryan Knoll from Republicans Against 8 spoke in opposition of the highly contested proposition.



The forum is available for viewing on the SFVBA's website, and portions can be viewed on YouTube. Members Wendy E. Hartmann, Carol L. Newman and Jenny Burcio participated in producing this forum, along with Bar and ARS staff Michele Morley, Rosie Soto, Liz Post and Linda Temkin, with special thanks to Meyer Bendavid for producing the program.

Earlier that week, the SFVBA Board of Trustees unanimously voted at its annual Board Retreat on October 5 to adopt a resolution "urging all members of the San Fernando Valley Bar Association, within their own communities, to actively support the full realization and exercise of civil rights by all citizens without regard for age, ancestry, color, religious creed, disability, marital status, national origin, race, religion, sex or sexual orientation." The vote came after Board deliberation on the appropriateness of taking a position on Prop 8; the Board voted against taking a position on the initiative. ✎

Valley Community Legal Foundation

Bar-Foundation Cooperation



**STEPHEN T.
HOLZER**
VCLF President

AT THE BAR AND FOUNDATION'S INSTALLATION Gala on September 20, 2008 held at the Woodland Hills Hilton, the new Bar and Foundation leadership was sworn in by Judge Alice Hill. As always, gracious speeches were given by the outgoing Bar President Sue Bendavid and incoming Bar President Tamila Jensen.



This year, there will be greater cooperation between the Bar and the Foundation. That cooperation started when the Foundation's Executive Committee attended the Bar's Annual Board of Trustees Dinner on October 4; the following day, the VCLF President served as the Foundation's representative at the Board Retreat.

Another, very important symbol of closer cooperation is that the Bar and the Attorney Referral Service are strongly supporting the Foundation's efforts to build a Children's Waiting Room at the San Fernando courthouse. The Foundation has so far raised approximately \$25,000 toward such construction (and hopes to raise more); the Bar and ARS have agreed to supplement those funds up to \$30,000 to help ensure that the CWR gets built. With the opening of the Van Nuys CWR in October, the San Fernando CWR when built will mark the second courthouse children-friendly Valley facility.

The Bar and the Foundation will hopefully further support each other's events. The next Law Day Gala, the Foundation's premiere event, is tentatively scheduled for the evening of May 16, 2009 (please plan accordingly). In the past, the entire Bar office staff has pitched in to provide logistical support for this event. The Foundation is grateful to know that the SFVBA staff and volunteers intend to continue this support for the upcoming Gala.

Please be sure to mention to your non-lawyer friends that it is not necessary to be an attorney in order to participate in the Foundation. Many key volunteers for June's Gala were non-attorneys who, nevertheless, valued the charitable work of the Foundation and wanted to help further that work. Interested volunteers should contact Stephen Holzer at (818) 907-3299 or sholzer@lewitthackman.com. 🐾

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Valuation of Intellectual Property for Damages Calculations

**NOVEMBER 6
12:00 NOON
SFVBA CONFERENCE ROOM
WOODLAND HILLS**

Attorney John Stephens will discuss how to determine and calculate damages regarding Intellectual Property.

MEMBERS	NON-MEMBERS
\$30 prepaid	\$40 prepaid
\$40 at the door	\$50 at the door
1 MCLE HOUR	

Probate & Estate Planning Section Financial Gerontology

**NOVEMBER 12 (WEDNESDAY DUE TO
VETERAN'S DAY HOLIDAY)
12:00 NOON
MONTEREY AT ENCINO RESTAURANT
ENCINO**

Noted psychologist Dr. Neal Cutler, Executive Director of the Center on Aging, Motion Picture & Television Fund and Dean of the American Institute of Financial Gerontology, will outline this important topic and discuss the relevancy to attorneys.

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\$35 prepaid	\$45 prepaid
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1 MCLE HOUR	

Litigation Section Civil Appeals for Litigators Who Don't Generally Do Appeals

**NOVEMBER 13
6:00 P.M.
SFVBA CONFERENCE ROOM
WOODLAND HILLS**

Attorney Mark Gottlieb of Wasserman, Comden & Casselman will present an overview of civil appellate procedures in state court. The information will familiarize civil litigators with the basic elements of the appeal process so that they better understand the process for themselves and give better advice to their clients as to the pros and cons of prosecuting or defending an appeal. The presentation will also include some basic tips for trial attorneys in case an appeal is filed. The seminar is designed for trial attorneys who have little or no familiarity with handling appeals. An outline will also be provided.

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Business Law, Real Property & Bankruptcy Section Lease Rights and Lease Renewals

**NOVEMBER 18
12:00 NOON
SFVBA CONFERENCE ROOM
WOODLAND HILLS**

In a struggling economy, commercial landlords and tenants are often forced to think "outside of the box" when negotiating or renegotiating leases. Attorney David Adelman of Greenberg & Bass will focus on some of the different and often creative approaches now being taken by these landlords and tenants to help maximize the performance of their real estate assets. This program is important to any attorney negotiating his or her office lease or those of their clients.

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Workers' Compensation Section E.A.M.S: Update from the Judges

Judge Davidson Guerra and Judge Frank will discuss E.A.M.S and give attendees an update on how the system is working and what you need to know in order to stay current.

**NOVEMBER 19
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MONTEREY AT ENCINO RESTAURANT
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Santa Clarita Valley Bar Association Installation & Award Evening

**NOVEMBER 20
6:00 P.M.
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Family Law Section An Evening with Israeli Family Court Judge Paul Stark

**DECEMBER 1
5:30 P.M.
SPORTSMEN'S LODGE
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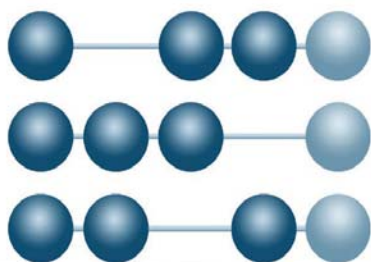
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