

# BarNotes

Volume 8 • Issue 5 • July/August 2001

A Publication of the San Fernando Valley Bar Association

*Save the Date!*

Sunday  
July 8, 2001

**Concerts in the Park 2001**

See page 13 for details.

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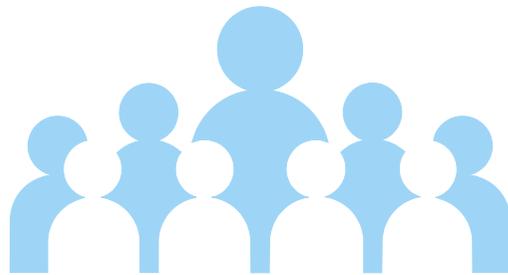
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## NEW BOARD OF TRUSTEES NOMINATED



The San Fernando Valley Bar Association Nominating Committee met on June 5 to nominate the 2001-2002 Board of Trustees. Officers nominated are Steve Holzer, President-Elect; James Felton, Secretary; and Marcia Kraft, Treasurer. Lyle Greenberg automatically assumes the Presidency on October 1.

The Committee nominated twelve candidates to fill six open seats on the Board. Three sitting Trustees are seeking reelection: Neal Dudovitz, Lloyd Mann, and Alice Salvo. Other members nominated are Seymour Amster, Michael Convey, Phillip Feldman, Robert Flagg, Cynthia Hogan, Kevin Rex, Larry Simons, and Maria Skinner.

SFVBA President Christine Lyden comments, "The Nominating Committee did a terrific job of selecting candidates who have each contributed to the growth and success of our organization. They represent a cross-section of our sections, areas of practice, and our community."

In accordance with the SFVBA by-laws, additional nominations for trustee or any office, except that of President, may be made

by filing with the SFVBA Secretary Steve Holzer a written nomination, signed by at least twenty active members of the Association in good standing. Petitions must be received by July 31.

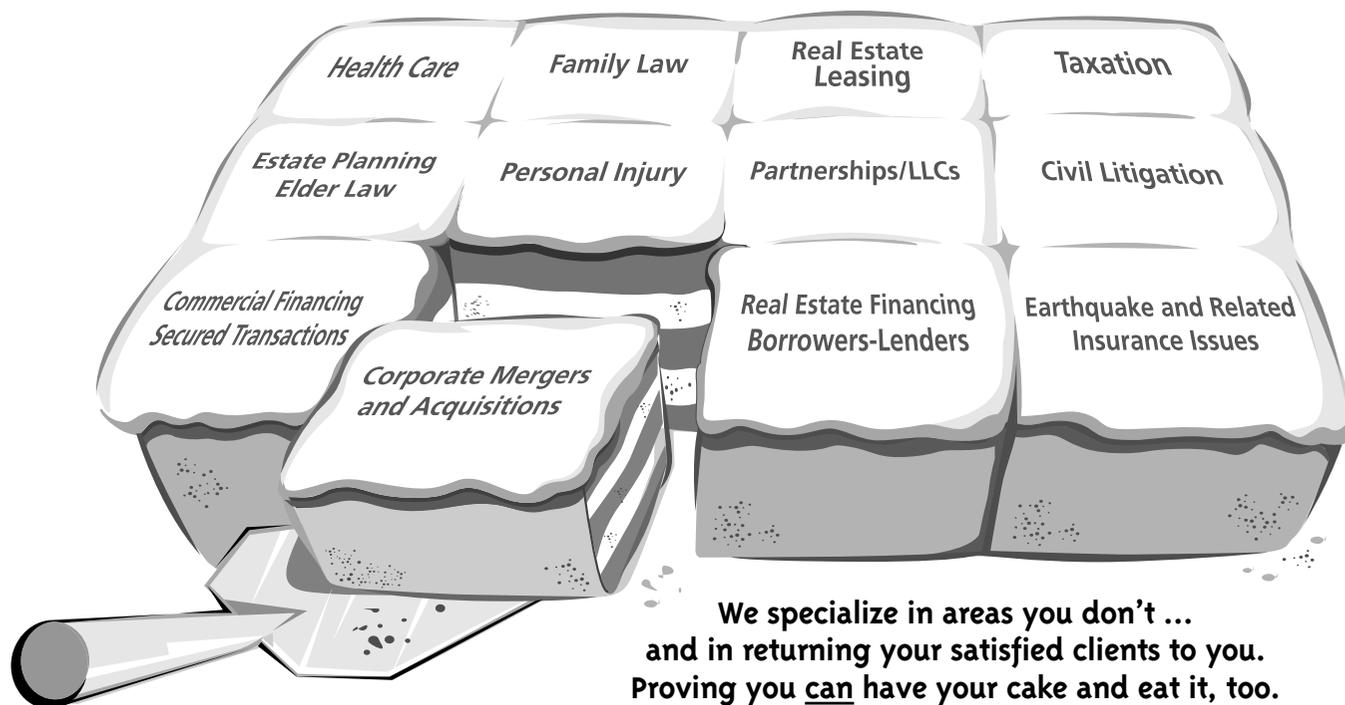
Ballots will be mailed to all attorney members in August. The results of the election will be announced September 11. The new Board of Trustees will be sworn in at the 75th Anniversary Gala on September 29 at the Universal City Sheraton.

### SFVBA Accepting Applications for Committees

The SFVBA offers members the opportunity to contribute to the legal profession and the public by volunteering to serve on one of twenty committees. President-Elect Lyle Greenberg is currently issuing appointments for the new Bar year commencing October 1. Members are encouraged to participate in the following committees: Bench-Bar, Conference of Delegates, LRIS, Membership & Marketing, Personnel, Programs/Special Events, Public Service, and the Executive Committees of the thirteen sections.

Any member wishing to serve on a committee can contact Lyle Greenberg at (818) 884-5100 or email [greenbergs@earthlink.net](mailto:greenbergs@earthlink.net). 

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Christine Lyden  
SFVBA President

# LUNCH WITH THE PRESIDENT

BY CHRISTINE LYDEN

Liz Post and I recently received an invitation for lunch with the President-Elect of the State Bar, Karen Nobumoto and several attorneys from District 6 of the State Bar. We traveled up to Santa Barbara on a rather gloomy day and were pleasantly surprised by the warm reception we received at the University Club.

Ms. Nobumoto is scheduled to be sworn in the beginning of September. She is the first government attorney and African American/Japanese American woman to serve as President of the State Bar. She is a District Attorney in Los Angeles County.

I was immediately impressed by her down-to-earth manner and her enthusiasm for the year that lies ahead. One of her goals is to make the President more accessible to the members of the State Bar. With her charismatic personality, I am certain she will make great strides in changing the image of the State Bar. True to her word, Ms. Nobumoto brought along her calendar and at the end of meeting committed to several speaking engagements, including our *75th Anniversary Gala/Installation Dinner* on September 29.

In addition, Ms. Nobumoto spoke about her strong desire to increase the diversity of the legal profession and encourage greater participation of minority attorneys. While white woman are continuing to make advances, men and women of color have not advanced in the profession and within the State Bar. Local bar associations such as ours were encouraged to promote and support our minority members and to participate in State Bar committees. It is from the committees that members are elevated to leadership positions. There are numerous committees that are in need of support. All of the committees and chairs are listed on the State Bar website. I encourage any of you who are interested to consider volunteering for a State Bar committee.

Ms. Nobumoto is strongly supportive of community service programs such as the Homeless Court project that recently opened in Ventura. While the State Bar cannot sponsor such programs, the State Bar Foundation has helped many of these projects with start-up financing. I was not aware of the extent of the Foundation's involvement in new community service programs.

Liz and I also received information about District 6. District 6 is comprised of the Ventura, San Luis Obispo, Riverside and Santa Barbara Counties. Ventura and San Barbara Counties were once part of District 7, which they left when they felt they were being overshadowed by the Los Angeles County Bar Association. Similarly, Riverside left its original District because they felt they were overshadowed by the Orange County Bar Association. The San Fernando Valley Bar Association is currently part of District 7. It was suggested to us that we consider joining District 6. This suggestion was of interest to both Liz and I and an idea that will be discussed with the Board of Trustees. I would welcome input from our members regarding this issue.

All in all, it was a very interesting and informative meeting. It was particularly satisfying to have our Association recognized by the incoming State Bar President. I am looking forward to the Karen Nobumoto's year as President.

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# LABOR COMMISSIONER RESTRICTS ABILITY TO MAKE DEDUCTIONS AGAINST AN EMPLOYEE'S "SALARY"

BY CYNTHIA ELKINS HOGAN

*About the Author: Cynthia Elkins Hogan provides counseling for employers and practices employment litigation in Encino. To make comments about this article, call (818) 501-8550 or send email to chogan@employer-law.com.*

In an Opinion Letter issued May 30, 2000, by the California Labor Commissioner, the payroll practices regarding deductions for time missed from work for exempt employees has been drastically altered. The opinion is a complete departure from prior California interpretation and from Federal law (29 C.F.R. §541.118) on permissible deductions from salary.

Prior to the recent Opinion Letter, employers could deduct certain wages from an exempt employee's wages for time missed from work. The ability to make such deductions is now severely restricted, as described below. These changes **must** be implemented in order to maintain an employee's "exempt" status and to maintain the exclusion from overtime compensation requirements.

An employee is "exempt" as a Professional, Administrative or Managerial employee and not covered by the overtime requirements of the Industrial Welfare Commission's wage orders if the employee is primarily engaged in work that requires the employee to customarily and regularly exercise their discretion and independent judgment in the performance of those duties and earns a monthly salary equivalent to no less than two times the state minimum wage for full time employment (California Labor Code Section 515(a)). Deductions from the "monthly salary" may no longer be made under the following conditions:

- **No deductions based on Quality or Quantity of Work.** An employee's salary amount is **not** subject to reduction because of variations in the quality or quantity of work performed.

- **No deductions for Absences due to Operating Requirements of the Business.** If an employee is "ready, willing and able to work," no deductions can be made from their salary for time not worked as a result of the Employer's failure or inability to have work available.
- **No deductions for Absences Occasioned by Sickness or Accident.** No deductions may be made from the salary of an exempt employee for full day absences due to sickness or accident UNLESS the absence exceeds the entire month. Deductions MAY BE MADE for absences of a FULL WORKING DAY or MORE due to sickness or disability IF the deduction is made pursuant to a bona fide plan, policy or practice of providing sick pay

AND the employee has exhausted the sick leave available under the plan, policy or practice.

- **Penalties Imposed on Employees for Safety Rule Infractions Not Permitted.** Contrary to Federal law, California does not permit deductions from salary of an exempt employee who is suspended for any amount of time due to violations of safety rules.
- **No Deductions for Jury Duty, Attendance as a Witness or Temporary Military Leave.** Employers may not make deductions for time missed due to an employee's attendance at jury duty, as a witness in court (whether on behalf of the employer or otherwise) and for temporary military leave assignments.

*See Labor, continued on page 14*

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# E3 - ELECTRONIC ENTERTAINMENT FOR LAWYERS IN MORE WAYS THAN '01

BY DAVID GURNICK



**About the Author:** *David Gurnick is managing partner of the Woodland Hills office of Arter & Hadden.*

This year's E-3, the Electronic Entertainment Exposition held annually at the L.A. Convention Center, presented more entertainment for lawyers than ever, in more ways than one. Today, with Westlaw, Lexis, law treatises and texts provided on CD-Rom, on-line court opinions, videotaped depositions, animated reconstructions and, of course e-mail, law practice requires lawyers to use more electronic technology than ever before. But technology is for more than just work and information. It is also for fun and games.

E-3 isn't about technology for lawyers. It's about electronic entertainment. The games and devices that were exhibited will entertain lawyers, families and others. But a careful look at this year's Electronic Entertainment convention revealed that a great deal of the fun and games are developed in the San Fernando Valley.

First, let's talk about the fun and games for lawyers and families. Four new videotape platforms were introduced this year: Nintendo's game cube, Gameboy Advance, Microsoft's X-Box, and Sony Playstation 2. These new systems will feature better images, faster action and a range of other features. These are in addition to millions of Sony Playstations and Sega Dreamcasts and Nintendo 64s still in use. Lawyers and families who need an electronic diversion from the work will have plenty to occupy their minds and nimble fingers with the new equipment coming this fall.

Many game publishers exhibited products they think lawyers will particularly enjoy. Dreamcatcher, a Canadian-based company, felt that members of the legal profession would be interested in "Jekyll & Hyde," a new game whose slogan is "Reawaken the Beast Lying Dormant Within." This software adventure is set in London in the late 1800s. To find his kidnapped daughter, Dr Henry Jekyll must resurrect Mr. Hyde. Lawyers looking for an adventure that is both modern and ancient may enjoy the same company's new Atlantis adventure. It involves following a young Egyptologist trying to uncover the mysteries of the lost world.

Lawyers know about following rules. But when it comes to game play, today it's in vogue to cheat. Two publishers, Versus Books and Brady Games, presented strategy guides and "cheat" books. These publications contain tips and codes that add features to and remove obstacles from many of the most popular games for the platforms mentioned above, and for on-line and software games played on home PC's.

The exhibitors included companies with tools for the trade. Leave it to a Russian company, Russobit-M Co., to present software for preventing copying of software. While offered at E-3 as a tool to combat copyright infringement for published computer games, the manufacturer suggested their product will help lawyers who wish to encrypt confidential files on CD-ROMs. (For more information on this copy-protection software, visit [www.star-force.com](http://www.star-force.com).)

Exhibitors' demonstrated new versions of golf and other games for Palm Pilots (Zio Golf), on-line adventure games, and a wide range of games for the new platforms mentioned above, as well as for PC's. The four large Convention Center exhibit halls at E3 were so overwhelmingly filled with game demonstrations and equipment, that it was clear there will be plenty of electronic entertainment for lawyers and their families for years to come.

At least eighteen exhibitors were from the San Fernando Valley and surrounding areas. A look at the geographic diversity of the Valley companies makes it apparent that this is a thriving community in high-tech entertainment.

Among Valley area E-3 exhibitors were THQ, which is one of the largest publishers of electronic game titles, as well as Novalogic and Sound Source International, also publishers of electronic entertainment products, all based in Calabasas; ActionZone, a game exporter, based in Chatsworth; Van Nuys-based GTM Video and game distributor Royal Electronics; Walt Disney and Warner Brothers based in Burbank; Gamefan Magazine located in Woodland Hills; Sonic Desktop Software based in Northridge; accessory manufacturer Naki International located in Sun Valley; and Universal Interactive Studios in Universal City, to name a few.

E-3 was far too big to discuss more than a small fraction in this article. For example, apart from showing software that will be available soon in retail stores, much of the exhibit was filled with video games that will be found in video arcades. The size of the exhibition and the range of products made one thing apparent. There will continue to be a lot of new electronic entertainment software for lawyers and others as well, and the San Fernando Valley will continue to be a key area where these games are produced. 

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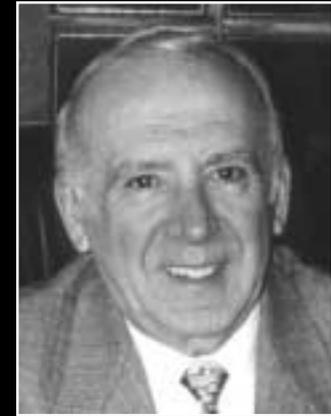
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Below are the e-mail parameters for responding to probate notes. At the end of each probate note is the e-mail address for the probate attorney who prepared those notes. While clearing of notes is usually done by supplement or other pleadings, the e-mail response allows the party to bring matters to the attention of the probate attorney, for clarification of probate notes or to ask procedural questions.

### I. Purposes

- A. To alert the Probate Attorney, who prepared the notes, that a document or documents were filed to clear the notes for matters in Dept. 5 and Dept. 11;
  - B. To request a continuance;
  - C. To request authority to file "clearing document" with the Attorney Order. Filing of such documents will be allowed in the discretion of the Probate Attorney. Examples include, but are not limited to: FTB Income Tax Certificate; Waiver of Notice/Special Notice; Withdrawal of Request for Special Notice; Waiver of account; Consents; PC 8800d cert;
  - D. To ask a question as to specific defects or issues.
  - E. E-Mail is not a substitute for a supplement or other document for purposes of clearing probate notes.
- II. Schedule. E-mail messages must be received within the applicable time for clearing of technical defects as set forth in LASC Ch. 10 Rules 10.19 and 10.31.1.
- III. E-Mail Format. E-mail message shall conform to the following:
- A. Five lines as to each defect or issue;
  - B. E-Mail message not to exceed 2 pages;
  - C. Limited to one e-mail message per calendar matter per hearing date.
  - D. No attachments
- IV. E-Mail inquiries. E-mail inquiries can be made after reviewing the calendar notes and shall include the following information:

- A. E-mail is to be directed to the address appearing at the end of the probate notes.
- B. The "subject line" of the e-mail to reference the hearing date only
- C. General identifying information within the e-mail message:
  1. Hearing Date;
  2. Department;
  3. Case Number;
  4. Case Name;
  5. A reply telephone number for additional follow up, if needed;
- D. Information to address defects or issues:
  1. Specific reference to defect or issue;
  2. Information intended to advise the Probate Attorney documents were filed that should clear probate notes. That message should include Title of document(s) and Date(s) of filing;
- V. E-mail that does not comply with II, III & IV above may not be reviewed.

### Sample E-Mail Message

FROM: \_\_\_\_\_  
 TO: \_\_\_\_\_@lasc.co.la.ca.us  
 SUBJECT: Hearing Date 4/26/01  
 MESSAGE: DATE: April 23, 2001  
 FROM: \_\_\_\_\_  
 TELEPHONE #: (xxx) xxx-xxxx  
 HEARING DATE: April 26, 2001  
 DEPARTMENT: \_\_\_\_\_  
 CASE NUMBER: \_\_\_\_\_  
 CASE NAME: Estate of \_\_\_\_\_

Defect A: Notice of Hearing was filed 3/29/01

Defect B: Can I file the FTB Income Tax Cert with A/O?

Defect C: Supp has been filed on 3/29/01 setting forth correct statutory fee calculation 



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## MESSAGE FROM LRIS COORDINATOR MICHELLE C. MORLEY

The cover story of the winter edition of the *Professional Lawyer*, published by the ABA Center for Professional Responsibility, describes how unprofessional and unethical conduct is harming the legal profession. The dismayed words of many jurists, scholars, and lawyers discuss how there has developed among many lawyers an apparent disdain and a rejection of common courtesy and civility. Yale Law Professor Stephen L. Carter concludes, "...rudeness is evidently justified on the grounds that rudeness is what the client is paying for."

The former Dean of the Academy of International Lawyers, Bob Josefsberg, was quoted as saying, "Civility is not inconsistent with zealous advocacy. You can be civil while you're aggressive, upset, and intimidating; you're just not allowed to be rude. Unfortunately, some lawyers and the public don't understand the differences."

Not long ago I attended a meeting with others in my neighborhood to hear a presentation from a school that was proposing to expand. Before the presentation was complete and the questions asked and answered, a member of the audience stood up. In effect he said, "This school will not expand because I will sue to prevent it. I am an attorney so this is not an idle threat."

He made it clear he was an angry attorney, but at that moment he was clearly not showing civility. Recently I heard of an attorney who had been called for jury duty becoming so upset and disruptive that a court bailiff had to be called. These are small incidents, but they both occurred in front of the general public who already hold the profession in less regard than at anytime in the past.

It is easy to be angry. Aristotle said, "Anybody can become angry—that is easy; but to be angry with the right person, and in the right degree, and at the right time, and for the right purpose, and in the right way—that is not within everybody's power and it is not easy." Anger is spontaneous and reflects a "hair-trigger." Civility shows thoughtfulness and a conscious intent not to be rude.

Lawyers are role models in a society founded on the law. As attorneys we need to conduct ourselves with control and contemplation of our actions and behavior. Legal ethics writer and past president of the Chicago Bar Association, Don Hubert, believes that competence, ethics and civility is the core of professionalism. "We need to focus on these issues of professionalism not only because of lofty ideals, but because professional conduct makes everyone's life easier, ensures that a better product is delivered to a client, and protects all of us from the generalized, negative view of lawyers that is so often held by the public."

Civility, ethics, being well prepared, and doing pro bono work is what should define the legal profession. Each morning I am going to tell myself that I am not going to work...I am going to practice my profession. 

## ePolicy<sup>SM</sup>

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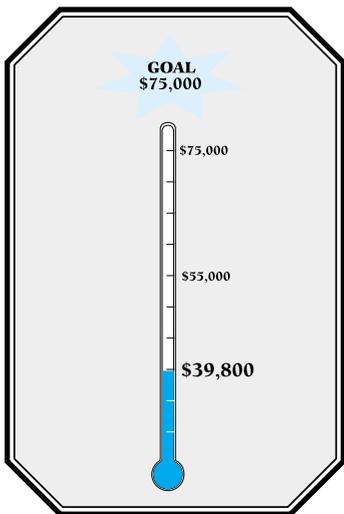
- Jan Champion, Esq.  
California Lawyer Magazine, Oct 2000

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## MESSAGE FROM EVENTS COORDINATOR

LINDA TEMKIN



Summer is definitely upon us. You can tell not only from the escalating temperatures but the scaled-back Calendar of Events. Many of our sections take a well-deserved break during the summer and for those of you on vacation, enjoy and relax.

In the meantime, we are busy planning the San Fernando Valley Bar Association's 75th Anniversary Gala. You should have received the Save the Date cards by now and we certainly hope you will join us for this event, our biggest, grandest celebration yet. The Gala is being held Saturday, September 29 at the Universal Sheraton Hotel and the theme is The Roaring 20's. Look for your invitation this summer and be sure to reserve early; we expect a capacity crowd.

Take note. On July 27 we are co-sponsoring with the San Fernando Valley College of Law a free two-hour MCLE event on Title III legal issues. The speaker is attorney Eve Hill, Vice-Chair of the State Bar Committee on Legal Professionals with Disabilities. Join us for this informal brown bag lunch and earn more MCLE credits. Call the Bar office at (818)227-0490, ext. 105 with your reservation.

As always, your comments and suggestions are welcome. I look forward to hearing from you and wish everyone a wonderful summer. 🌊

MONDAY	TUESDAY	WEDNESDAY
<h1>JUL</h1>	<div style="border: 2px dashed black; padding: 10px;"> <p style="text-align: center; color: blue;"><b>Information &amp; Reservations 818•227•0490</b></p> <div style="display: flex; justify-content: space-between;"> <div style="border: 1px solid black; padding: 2px;"> <p style="margin: 0;"><b>SIGN ME UP!</b></p> </div> <div> <p>SECTION _____</p> <p>NAME _____</p> <p>STATE BAR # _____</p> <p>TELEPHONE # _____</p> <p>CHARGE IT! CC # _____ EXP. DATE _____</p> <p>SIGNATURE _____</p> </div> </div> <p>SEND CHECK TO SFVBA 21300 Oxnard St., Suite 250 Woodland Hills, CA 91367</p> <p>FOR MORE INFORMATION CALL (818) 227-0490</p> <p style="text-align: right; font-size: small;">Food and beverages served at every MCLE event! * Please note that no credit will be given unless notice of cancellation is provided 48 hours before scheduled event</p> </div>	
<b>9</b>	<b>10</b>	<b>11</b>
	<p style="color: blue;"><b>Executive Committee/ Board of Trustees Meetings</b></p> <p>Time: 4:30 p.m. Place: SFVBA Conference Center, Woodland Hills</p>	
<b>16</b>	<b>17</b>	<b>18</b>
		<p style="color: blue;"><b>Workers' Compensation Section</b></p> <p>Topic: <i>Latest California Laws Re: Disability Discrimination</i></p> <p>Speaker: David H. Greenberg, Esq.</p> <p>Time: 12:00 noon</p> <p>Place: Encino Glen Restaurant, Encino</p> <p>Cost: \$25 members prepaid; \$30 at the door \$30 non-members prepaid; \$40 at the door</p> <p>MCLE: 1 hour</p>
<b>23</b>	<b>24</b>	<b>25</b>
	<p style="color: blue;"><b>Executive Committee Meeting</b></p> <p>Time: 7:30 a.m. Place: Coco's Restaurant, Woodland Hills</p>	
<b>30</b>	<div style="border: 2px solid black; padding: 10px;"> <p style="text-align: center; color: blue; font-size: 2em;"><b>COMING IN AUGUST</b></p> <p style="text-align: center; color: blue;"><b>Intellectual Property &amp; Internet Law Section</b></p> <p>Topic: <i>Franchise Law &amp; Intellectual Property</i></p> <p>Speaker: David Gurnick, Arter &amp; Hadden</p> <p>Date: August 17, Friday</p> <p>Time: 12:00 noon</p> <p>Place: SFVBA Conference Center, Woodland Hills</p> <p>Cost: \$5 members prepaid; \$10 at the door \$10 non-members prepaid; \$15 at the door Brown Bag Lunch. Beverages provided</p> <p>MCLE: 1 hour</p> </div>	

	THURSDAY	FRIDAY
	<b>5</b>	<b>6</b>
<b>11</b>	<b>12</b>	<b>13</b>
		<p><b>Intellectual Property &amp; Internet Law Section</b></p> <p>Topic: <i>Litigation Strategy for the I.P. Practitioner: Emphasis on Trade Dress Litigation and Recent Trade Dress Cases</i></p> <p>Speaker: Mona Hanna, Michelman &amp; Robinson, LLP</p> <p>Time: 12:00 noon</p> <p>Place: SFVBA Conference Center, Woodland Hills</p> <p>Cost: \$5 members prepaid; \$10 at the door; \$10 non-members prepaid; \$15 at the door. Brown Bag Lunch. Beverages provided!</p> <p>MCLE: 1 hour</p>
<b>18</b>	<b>19</b>	<b>20</b>
<b>25</b>	<b>26</b>	<b>27</b>
	<p><b>State Bar Committee on Legal Professionals with Disabilities, San Fernando Valley College of Law, and San Fernando Valley Bar Association</b></p> <p>Topic: <i>Tips and Strategies for Negotiating Title III of the American with Disabilities Act Cases</i></p> <p>Speaker: Eve Hill, Esq., Vice-Chair of the State Bar Committee on Legal Professionals with Disabilities</p> <p>Time: 12:00 noon</p> <p>Place: SFV College of Law 21300 Oxnard Street, Woodland Hills</p> <p>Cost: Free. Brown Bag lunch!</p> <p>MCLE: 2 hours</p> <p>RSVP: Linda at (818) 227-0490, ext. 105</p>	

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Labor, continued from page 5

However, deductions MAY be made if any of these leaves extend beyond one full month so that an employee need not be paid for any month in which the employee performs no work during that month.

**Failure to Comply will Result in Loss of Exempt Status.** If an employer inten-

tionally fails to comply with this standard and makes deductions, such would indicate that there was no intention to pay the employee a "salary"; therefore, the exempt status would be lost and the employee would be eligible to receive overtime compensation. If the deductions

are made in a good faith error, the exemption will not be lost.

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- **Supplemental Pay for Exempt Employees.** Exempt employees may be eligible to receive pay in addition to their monthly salary such as bonuses, payment for additional hours of work, etc, without such additional payments affecting the "exempt" status.

Based on these changes, employers must immediately alter their payroll practices to ensure compliance with the new interpretation on permissible and impermissible deductions from an exempt employee's salary. ↗



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Commencing June 1, 2001, Limited Jurisdiction civil cases arising within the North Valley District, which are currently filed in Van Nuys, will be given a case number containing the alpha character "A," such as 01A00001. Any active cases with this alpha designator will be reassigned to the Chatsworth Courthouse upon its opening, projected to be in November 2001. Until these cases are reassigned to Chatsworth, they will be processed, and all proceedings will be held, in the location where the case is filed.

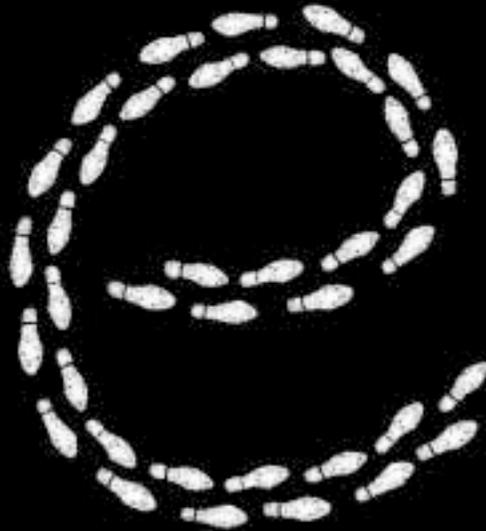
Cases affected by this change arise in the following zip codes: 91040, 91041, 91042, 91043, 91311, 91312, 91313, 91324, 91325, 91326, 91327, 91328, 91329, 91330, 91331, 91332, 91333, 91334, 91340, 91341, 91342, 91343, 91344, 91345, 91346, 91352, 91353, 91392, 91393, 91394, and 91395.

## CourtCall to Provide Telephonic Hearing Calendar Services

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The audio teleconferencing service is being expanded on a phased-in basis to all Superior Court locations as various judicial officers request the service. 



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# LAW DAY DINNER RAISES FUNDS FOR SCHOLARSHIPS AND GRANTS

More than three hundred and fifty attorneys, judges, law enforcement officers, firefighters, elected officials, and other members of the San Fernando Valley community attended the Valley Community Legal Foundation's Law Day Dinner on May 11 at the Warner Center Marriott. A Silent and Live Auction raised funds for grants and scholarships.



A total of twelve scholarships were presented to deserving law students from the San Fernando Valley College of Law; graduating seniors from California State University Northridge who are entering law school; and graduating seniors from the Monroe High School Law and Government/Police Academy Magnets who are pursuing law-related careers.





The President's Award was presented by Dee Siegel to Andrew Bridge, CEO/General Counsel of The Alliance for Children's Rights, for his passion, dedication, and advocacy for the rights and protection of the "best interests of our children."

Congressman Brad Sherman congratulates Heroes in Law Enforcement.



Brad Garrett, who plays a New York policeman in the television series *Everybody Loves Raymond*, was the recipient of the Armand Arabian Law & Media Award. Garrett towers student volunteers from the Monroe High School Police Academy Magnet.



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*State Bar Committee on Legal Professionals  
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with speaker,

**Eve Hill, Esq.**

Vice-Chair of the State Bar Committee  
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**Friday, July 27**

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# THE PRACTICE

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## CHRISTMAS IN JULY?

A series of essays  
on practice of law  
and life

BY DAVID R. HAGEN



**About the Author:** *Dave Hagen is a principal at Merritt & Hagen. The firm's practice focuses on representing individuals and small businesses in bankruptcy. He is a past president of the SFVBA. He speaks to attorneys often on the areas of bankruptcy, the marketing of legal services, and the practice of law. He welcomes your comments to this series of essays.*

I am dictating this article at Christmas 2000. I hope to have it published in *Bar Notes* sometime in the summer of 2001. I will tell you why I am doing this later.

It is right about midnight on Christmas 2000. This essentially brings to a close an enjoyably and hectic holiday season. We have connected with distant family and friends by sending and receiving holiday cards. We put special decorations on our house to commemorate the season. We have spent social time with co-workers at holiday parties. We spent time in the malls thinking about others and buying them gifts. We have made plans to be with family and friends over the next several days. It is a good, good feeling.

The kids have gone to bed. The presents are around the tree. I am out in the backyard which overlooks the Valley. The Valley looks festive as I can see holiday lights on many of the houses. The Valley traffic is quiet. Everyone is anticipating a few days off from the usual work-a-day world. I am sitting in the jacuzzi, taking a few minutes to relax before going to bed. I wanted to capture this moment and these thoughts so I am actually using my cell phone to dictate this column using my Cyber Secretaries dictation service.

It is truly a special feeling and time of year for everyone. This is true whether they celebrate a Christian Christmas, Hanukkah, Kwanzaa, or just plain old secular Christmas. We even seem to treat others better during this season. If someone cuts you off on the street or takes your parking place, you just smile and move on. If someone does not seem to have their act together, we have a tendency to give them the benefit of the doubt. We think about and help others who are not as fortunate as we might be. I even see NBA players volunteering in soup kitchens on TV.

Close your eyes for just a minute and see if you can reconnect to the feeling that you have this time of year. Now lets mentally flash forward to present day when you read this, the summer of 2001. I bet that when you read this, that special holiday season feeling will be all but gone. Where did this special feeling go? It is my bet that these feelings will be completely lost in the middle of the year when we are thinking of the Memorial Day, the Fourth of July, and Labor Day. Isn't that a shame?

I plan to make it a point to try and carry a small bit of this special feeling with me throughout the year. I would like to be just a bit more connected with family and friends. I will try to be more considerate of co-workers. I tend to be a bit judgmental, so I want to try to retain the feeling of giving the "other guy" a break. I even plan to leave one string of Christmas lights up all year. (My neighbors will love this.)

In the movie *Scrooged*, the Bill Murray character said something to the effect that Christmas is the time of year where we act like the people that we want to be. It's going to be tough to do in a competitive business atmosphere, especially in a profession that is based upon an adversary system. However, one of my goals for this year will be to try to keep just a bit of that holiday feeling all year round. Even if I succeed *just a little bit*, I think it will be worth the effort.

This article will be catching you midyear. If you've lost that feeling, do you want to get it back? If so, make a point every few days to sit down and try and reconnect with that feeling and see how you might incorporate it in your every day life. If this works in a positive way for you, we can wish each other "happy holidays" when we see each other at the next bar meeting. 

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