



BarNotes

A Publication of the
San Fernando Valley Bar Association

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MEREDITH TAYLOR TO RECEIVE LINTZ AWARD SFVBA HONORS VOLUNTEERS

The San Fernando Valley Bar Association Board of Trustees unanimously named recently retired Judge Meredith Taylor as the 2005 recipient of the Stanley M. Lintz Award. Taylor will be presented with the SFVBA's highest honor at the 25th Annual Lintz Award & Volunteer Recognition Cocktail Reception on June 9 at the Woodland Hills Country Club.



The Lintz Award was created in memory of Stan Lintz, who died of cancer in 1980 while President of the SFVBA. Recipients are nominated and selected based on the measure of what they have returned to the profession and to the community. Past recipients include

Laura Chick, Edmund Edelman, Sheila Kuehl, Barbara Jean Penny, David Fleming, Gary Barr, Robert Scott, Raquelle de la Rocha, Barry Harlan, Sharley Allen and Betty Fisher.

Taylor, a judge since 1985, is a longtime figure in the legal community of the San Fernando Valley, where she sat as a municipal and superior court judge for twenty years after practicing law here. Prior to her appointment, she served as a trustee of the SFVBA. Taylor also received the 1994 SFVBA Judge of the Year Award and was a longtime director of the Valley Community Legal Foundation of the SFVBA.

Taylor is a graduate of CSUN and Loyola Law School. After being admitted to the State Bar in 1975, she worked for the SBA for two years before opening a solo practice in Northridge, where she focused on family law and business matters.

This year's event will also honor more than 400 attorneys who volunteered thou-

sands of hours to the SFVBA's legal services programs this past year. The SFVBA will give special recognition to seven attorneys who gave their time above and beyond what was asked: Richard T. Miller, Lawyer Referral & Information Service; Jerry Rothman, Domestic Violence Clinic; Robert Flagg, VAST Program; Bernard Grossman, Probate Attorney Settlement Conference Panel; Sandra Kamenir, Van Nuys Self-Help Center; Jeannie Schwab, Family Law Mediation Program; and Alice Salvo, Senior Citizen Legal Program.

The reception kick offs at 6:00 p.m. Tickets are \$40. For reservations or for more information, call Events Coordinator Linda Temkin at (818) 227-0490, ext. 105. ♣

Board Opposes Bill Taxing Legal Services

At its May 10 meeting, the SFVBA Board of Trustees voted unanimously to oppose AB 9, which would extend state sales tax to selected services – including legal services – in order to provide more money to education.

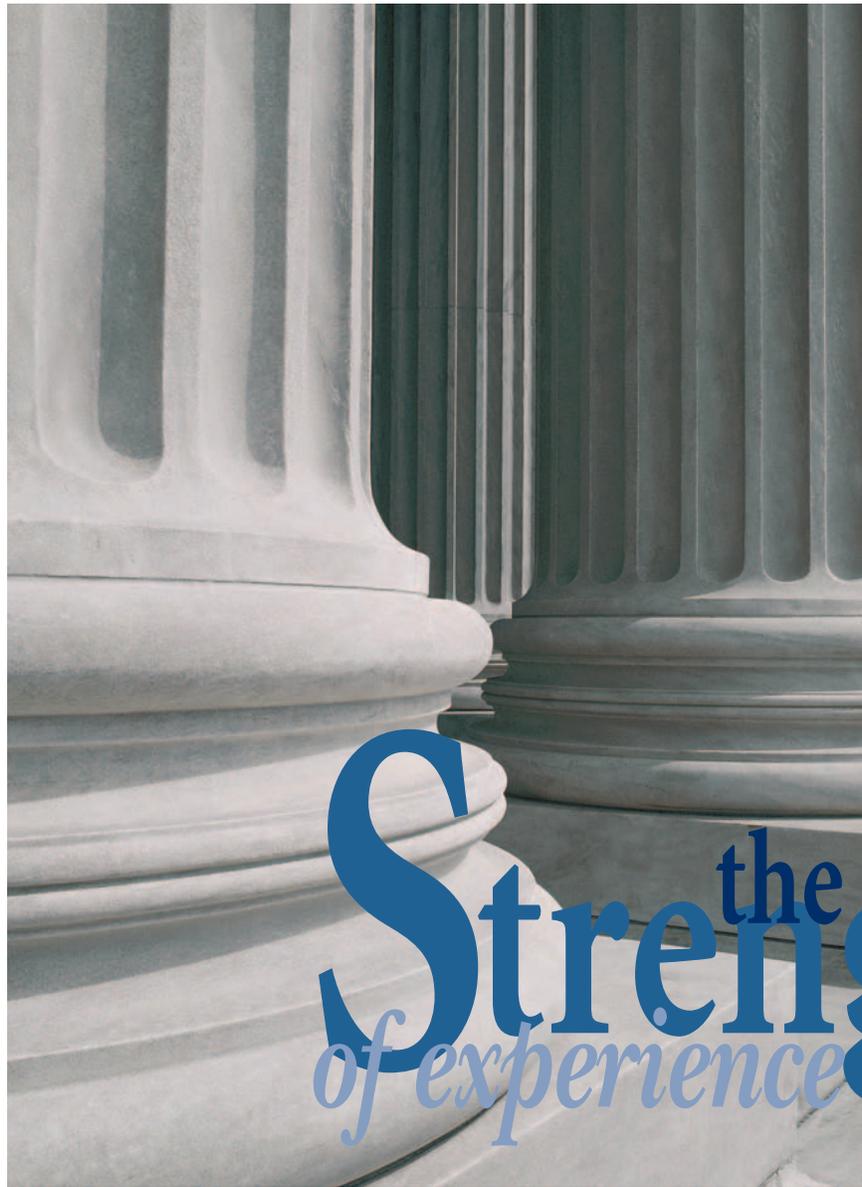
The bill, introduced by Assembly Member Joseph Coto (D-San Jose), was approved by the Assembly Education Committee on April 20, and was heard by the Revenue & Taxation Committee on April 25.

"The bill would have a profound impact on the practice of law in California," states SFVBA President Alice Salvo. "It clearly would impact law firms and their clients – possibly inducing corporate clients to bring their legal operations in-house, thereby avoiding the new tax."

"AB 9 would also make it harder for Valley residents, particularly those of moderate income and limited means, to obtain the legal representation they need."



San Fernando Valley Bar Association President Elect Richard A. Lewis, Executive Director Liz Post and Secretary Patricia L. McCabe joined ABA President Robert J. Grey Jr. and ABA President-Elect Michael S. Greco at the American Bar Association's Bar Leadership Institute in Chicago, March 10-12.



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Michele C. Morley, LRIS Director



One of the adopted goals of the SFVBA's strategic plan is to "increase outreach to the minority bar community to build stronger relationships that will increase the diversity of the profession in the San Fernando Valley." One step to accomplish this is to develop joint programs with other bar associations. Another strategic plan priority of the SFVBA is for the LRIS to provide more referrals to the Spanish speaking community.

We have recently begun to implement these priorities and goals. Below is an article that will appear in an upcoming Mexican American Bar Association newsletter. If anyone has any questions or suggestions about this pilot project, I would sincerely enjoy speaking with you.

Por favor, ¿tienen un abogado que me pueda ayudar? At the San Fernando Valley Bar Association referral service our Spanish speaking referral coordinators hear this request 15 to 20 times each day. This represents at least 5200 Spanish speaking callers to our LRIS each year. Hispanics constituted 42 percent of the Valley's population in 2004; in some areas of the Valley, Hispanics comprise 80 percent of the population.

We are fortunate to have a very successful referral service that has been making referrals since 1949. Last year our panel members earned almost 2 million dollars in legal fees from our referrals. Of our approximately 210 LRIS members, only fifteen are fluent in Spanish. Of these attorneys three practice criminal law, five

“The LRIS has many Spanish only speaking referrals. We encourage attorneys who speak spanish to contact us for information about joining the LRIS.”

family law, four personal injury law, two elder law, four workers' compensation, and two practice social security law. Currently, we have no attorney who is fluent in Spanish and practices employment law.

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President's Message, continued from page 3

and learn how to improve your success in negotiations. Did you know that a clever use of a Mediator in Negotiations increases results in negotiations by 15-45%? You owe it to your client, yourself and family to investigate an opportunity that increases your negotiation success by 15-45%.

In the Litigation Section, discussions on the changes in the Code of Civil Procedure as to when filing, giving notice and serving court documents require counting court days and when they require counting calendar days is designed to protect your back side, avoid blowing a deadline, and prevent committing malpractice!

In addition to presenting new laws, Section Chair Robert Flagg is ready, willing and able to provide those interested in litigation with whatever programs, speakers, and networking you would like to see to make you more successful in litigation matters.

Remember, your dues support our Bar. If there are services you want or need to improve your business, please tell us. All of us at the SFVBA, staff and volunteers care. Please try to attend a Section Meeting (listed every month on the inside of the back cover of Bar Notes, our monthly magazine).

If not now, when? ↗

Alice Salvo can be contacted at (818) 887-3333 or by email at salvolaw@pacbell.net.



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BY L. ROB WERNER, SCVBA PRESIDENT

Establishing New Traditions

Our Board has committed to establishing our Law Day event on the first Monday in October. This year the event will be on October 3. We will be having a lunch program at the Santa Clarita Valley Sports Complex. The event will last from noon to 1:30 p.m. The fee per attendee will be twenty five dollars. During the program we will honor local heroes in law enforcement. We are planning to line up John Boston, a local historian as one of the speakers to talk about the Santa Clarita Valley's legal history. As October nears, more information on the event will be provided. We would like to see our lawyers bring their staffs to this lunch event.

Our membership has been growing. To quote our Meeting's Committee Chairperson, Jane McNamara, "It's fabulous - word is getting out and people are joining - our programs have been terrific with great attendance." We have a goal of obtaining one hundred members by October. If you know an attorney who lives or works in the Santa Clarita Valley, please let us know their contact information. You may email us at santaclaritavalleybar@yahoo.com.

In April we had our first newsletter publication go out to attorneys we know about who live or work in the Santa Clarita Valley. It included our masthead and seal. The newsletter provided pictures and an update on activities, meetings, programs and work done by our various committees. It is paid for by advertising. Anyone interested in advertising may contact Jane McNamara at elderlaw@jmlaw.org.

Our regular meeting this month as usual will be on the third Thursday, June 16. Our June, September, December and March meetings are lunch meetings. We have all our regular meetings at Marie Callender's

Restaurant at 27630 The Old Road, Valencia. For more details and for advance reservations, contact our meetings committee at (661)287-3260. Check-in begins at 11:45 a.m. The lunch includes salad, desert and a soft drink. Member's advance registration is \$30, non-members \$40, at the door it is \$45.

I have been contacted by representatives of Santa Clarita's two paralegal programs. Both these programs offer externships whereby students gain academic credit for working in a law office. The law office gains the service of a student without pay.

Clarita Career College reports that it has a certificated post-secondary

career center. Its programs are structured to meet ABA certification guidelines and cover an eleven month course. Students are available to provide 120 hours of service. If you are interested in obtaining someone in this externship program, you may call Angela Bennett at (661)252-1864.

College of the Canyons has established a paralegal program and likewise provides students to offices free of charge for assistance and training. If you are interested in securing someone from their program, contact Deborah Orlik at (818)653-6863. College of the Canyons also has a

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LRIS Column, continued from page 5

Most attorneys have Spanish speaking staff and this is helpful. However, we want to provide the very best service to those who contact us. In many cases, that means we need an attorney that speaks fluent Spanish and we are trying to recruit these attorneys to our LRIS. In addition, we also believe it is important that the public have MABA's referral service available to them. To help this happen, the SFVBA/LRIS are already working with MABA staff as it revives MABA's own referral service. Our experience and information is useful to MABA because we use the same software program to operate our Bar Associations and referral services.

Because of our long-time presence in the Valley, our marketing programs, our working relationships with the Valley Courts and Neighborhood Legal Services, the SFVBA/LRIS will continue to be contacted by high numbers of Spanish speaking individuals seeking legal representation. Therefore, even as we work with MABA leadership and staff in reinvigorating its referral service, it is also essential that we improve the SFVBA/LRIS' ability to serve the Valley's Spanish speaking population.

The leadership of MABA and the SFVBA/LRIS have come together to offer MABA's membership the following opportunity to increase their business and to serve the public. This is our joint proposal:

1. This proposal is offered to MABA members who are currently members of MABA's LRIS.
2. The SFVBA will offer a free SFVBA/LRIS membership to MABA/LRIS members who are fluent in Spanish. This free membership will be through September 30, 2006.
3. For the MABA/LRIS members who join the SFVBA/LRIS during this trial period we will waive our rule requiring an office in the Valley.
4. MABA/LRIS members must also meet the SFVBA/LRIS experience requirements and carry \$100,000/\$300,000 in professional liability coverage.

The MABA and SFVBA leadership and staffs will continually monitor this pilot project and within six months will evaluate it. Both organizations believe that this will be the first of many opportunities to work together for the benefit of our members and the public. ♣

Report From The Foundation

Dinner Raises Funds for Grants and Scholarships

BY ANNE ADAMS, VCLF PRESIDENT



We celebrated Law Day with our annual fundraiser, the Law Day Dinner, on May 6. We honored Neal Baer, executive producer of *Law & Order: SVU*, by presenting him with the Justice Armand Arabian Law & Media Award after watching film clips of the series.

Costco Wholesale Los Feliz was presented with the President's Award for their volunteer efforts assisting vic-

tims of the January train crash. Costco employees provided emergency assistance to the victims of the crash, including using company fire extinguishers to fight the flames and moving the injured on flatbed carts to emergency vehicles. Costco also provided thousands of dollars in food and beverages during the emergency.

We honored officers from the Los Angeles Sheriff's Department for their work at the tragic January train crash. We also honored officers from the City of San Fernando Police Department, the California Highway Patrol, the Los Angeles Police Department and the Los Angeles Fire Department. They were honored for rescuing children, reducing gang crimes, and saving lives.

The Foundation provided \$48,000 in scholarships and law related grants this year. Seventeen students from Monroe High School, Pierce College, California State University Northridge and University of West Los Angeles School of Law received scholarships.

There were seven grant recipients. Haven Hills received funds for their court advocacy program, which assists victims of domestic violence.

We provided a grant to the Associated Students of Los Angeles Valley College to help fund a project that will provide students with access to attorneys in the areas of landlord/tenant law, family law, bankruptcy, immigration law and criminal law.

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THE PRACTICE

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The 5 Most Important Technological Revolutions in the Last 20 Years for the Legal Industry

BY DAVID R. HAGEN

I have been practicing law for 21 years. I never dreamed that technology would affect the practice of law to the extent that it has. It really makes me excited about what is to come. Perhaps looking at the technological revolution of the recent past may give us some insight as to what the future has in store.

I think there have been five really important advances in the past twenty years. See if you agree.

Computers

I can remember using a portable typewriter in college to print out term

papers. However, typing out a paper involved a lot of late night work and a lot of little bottles of that whiteout stuff. By far, the computer has been the most technological advance in the legal profession in the past 20 years.

The computer has allowed us to practice differently and perhaps more efficiently. It has not allowed us to practice without paper as most had thought. In fact, it has probably caused us to use much more paper than we did previously. We can obtain and control information quicker and more efficiently. It has allowed us to

communicate faster and more often. It has made our practice of law easier, but not made it easy.

Computerized Research

I remember in law school we had to sign up for time in the "computer lab" so we could get access to Westlaw and Lexis. We considered ourselves very fortunate to be able to use the service, for a limited period of time, at no cost because it otherwise would cost us \$1,000 an hour or more to use. Cases were printed out on rolls of brown paper that said Westlaw or Lexis on them.

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When I was in law school, we were taught to do research by concept. Shepardizing a case was a long and arduous process which involved looking at a list of numbers in books and moving to progressively smaller supplements and pocket parts (do you remember this like I do?). Now we search strings of words in the Westlaw and Lexis databases. With the push of a button you can essentially shepardize a case. How things have changed.

Fax Machine

Fax machines are now almost obsolete, but they had their day and place in the advancement of legal practice. I remember when nothing was so important that it needed to be read right away. Then a colleague got one and things started to be more important and move faster. Within a very short period of time, every firm of any import had a fax machine.

We expected our letters and documents to at least be read the same day. Paper rolls have been replaced by plain paper in fax machines and the price has dropped in price from

\$3,000 to \$300. Now, these machines are almost obsolete. Most of the technologically advanced firms are scanning documents and sending them, as Adobe PDF files, attached to email. It is quicker and the image is usually better. (Don't know what a PDF file is? You will.)

Email

As if expecting our documents to be read the same day were not enough, email now causes us to expect a document to be read within minutes. If an email is not responded to within a couple of hours, there is usually a follow-up telephone call or another email sent. This may sound ridiculous, but it is actually the case.

Email also allows us to send very large documents consisting of over a hundred pages to opposing counsel at the click of a button. Many times, these files are Word or Word Perfect documents, which have been marked up by the software program and compared to prior versions of the document. This is really pretty amazing. The next time you go to a meeting

with a lot of lawyers, look around and see how many are checking their email every couple of minutes on their Blackberry. (Don't know what a Blackberry is? You will soon.)

Cell Phone

I remember when a cell phone cost \$1,000 and, if you were not careful, you could go through the same amount a month in air time. Now we all have plans where we buy "buckets" of minutes and the most expensive plan that I know of is about \$130 a month. (I just got the new Motorola Razr phone and recommend it highly.)

These devices have allowed us to be much more in contact with our clients and offices. Driving back and forth to Court is not a time to relax but a time to reconnect with the office and clients. (It can also make this time billable.)

What will the next technological revolution be? I don't know for sure, but I have a few guesses.

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Report from the Foundation, continued from page 9

The University of West Los Angeles received a grant to assist three top law school graduates prepare for the July bar examination. The law school serves many nontraditional law students.



The Alliance for Children's Rights received a grant to assist children with special needs in their school environment. This grant will help parents of special needs children establish legal eligibility for programs that help children overcome their disabilities and succeed in school.



We provided a grant to the Los Angeles Superior Court's San Fernando Drug Court program, which encourages lawfulness and rehabilitation rather than incarceration.

The Los Angeles Free Clinic's grant will assist children, young adults, and other low income individuals by providing funds that support a legal hotline to help people access free and low cost legal resources and support legal clinics that help low income people represent themselves in court.

The SFVBA Lawyer Referral & Information Service received a grant to assist them in producing a video to inform the public about legal resources in the community.

Jack Genero was given a special recognition award for producing a video for the Foundation about our work in the community. The video was produced to help the Foundation tell its story to potential donors. We enjoyed watching our video for the first time at the dinner.

Thank you to everyone who supported our Law Day Dinner. 🐾



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Thank you to everyone who supported our Law Day Dinner. 🐾



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Please remember that we have an article being published every Friday in the *Signal*. We welcome submissions. Please send your 500-700 word essay to jshaffery@pooleshaffery.com.

If you would like to help out on one of our committees or have any suggestions, please contact me at lrobwerner@yahoo.com.

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Settling Employment Cases Just got Easier

New Tax Law Excludes Attorneys Fees From Income To Plaintiff



BY JAN FRANKEL SCHAU IN COLLABORATION WITH LAVONNE LAWSON

If there is anything that the typical clever lawyer does right, it is to shy away from offering tax advice to his clients. For years, the question of taxability of the attorney's fee earned on an employment case has been particularly perplexing for two reasons: first, because the fee may be a substantial portion of the recovery, especially if it's awarded under statute or as a contingency fee in a huge award; and second, because settlement of employment cases is otherwise taxed as earnings to the plaintiff, unlike other personal injury actions.

Few employment litigators, and even fewer employment mediators, truly understand the workings of these tax laws. The following is a synopsis of the latest developments in tax law affecting settlement and judgments in employment cases.

Pre-Jobs Act Tax Law

Under the law, prior to October 22, 2004, any judgment or settlement related to a taxpayer's employment was subject to tax as income (where not otherwise excludable, such as pursuant to physical personal injury). The attorney's fees and costs were treated as miscellaneous itemized deductions ("below the line deductions"). Accordingly, a taxpayer could not deduct the full amount of the fees and costs, and the fees were not deductible for purposes of computing the "alternative minimum tax".

The American Jobs Creation Act of 2004

On October 22, 2004, President Bush signed into law the American Jobs Creation Act of 2004, ("the Act"), which included a section providing an "above the line deduction"

for attorneys fees and court costs incurred in civil rights suits. Now, the plaintiff in an unfair discrimination claim can deduct the attorney's fees and litigation costs. As a result, plaintiff will not be taxed on these amounts.

This will make it easier to arrive at a settlement because plaintiff is now permitted to pay taxes only on the net recovery, after attorneys fees are paid. Plaintiffs can take advantage of this deduction in Title VII, ADEA, ADA, NLRB, FLSA, ERISA, WARN and FMLA cases, and the deduction applies equally to settlements or judgment. This offers opportunities for planning ways to minimize the tax consequences as well as to minimize the pay-out by the employer, because plaintiffs no longer need to inflate their demands in order to cover the anticipated tax bite.

continued on page 18

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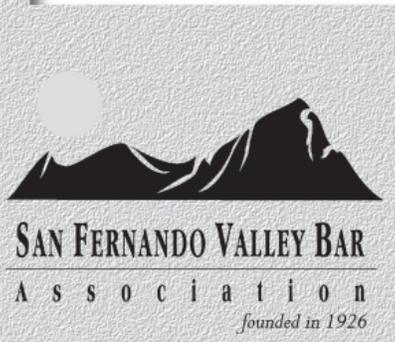
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The Practice, continued from page 12

It seems to me that the next revolution will involve how we communicate with our computers. This means typing. Bill Gates has been talking for years about how we will eventually talk to our computers. This is not really a new idea as it was anticipated as far back as the Star Trek years. If we are to progress with our computers it seems to me we will need to be able to communicate verbally. In fact, think of this: How antiquated is it for us to still type in each letter of the word by hand, with our fingers, at a time when our computers can think thousands and thousands of times faster than that?

I think the same issue will have some effect on how we deal with our support staff. When I first came into law, legal secretaries typed and produced pleadings. Now, we still use our very expensive support staff to type in and prepare documents. However, physically typing the document into the computer is the lowest skill level that we use these very highly trained and compensated individuals. It simply does not make sense to pay someone that much money to mechanically input data in such a slow and rudimentary manner. Something has got to change.

I know of a law firm that practices primarily in the workers' compensation area. Because they could not bill their insurance companies for word processing, they retrained all of their secretaries to become legal assistants and paralegals. All word processing is now done by an outside company overnight. The completed documents are emailed back to the office and the legal secretaries or staff massage the document and get them ready for filing the next day.

Now, while this may seem to add another expense, the typing service, to the overhead of the firm, it has also done something else. It has also created a job description called legal assistant or paralegal whose time is now billable. Yes, it costs us some money to train the staff and set them up to work with the outside typing service. However, our very knowledgeable and well-compensated assistants are now no longer doing basic typing. More importantly, their time now generates revenue as opposed to their salaries simply being an expense item detracting from the bottom line.

I have been using an online typing service for years called CyberSecretaries. You can visit their web site at www.youdictate.com. I am not endorsing this company, although I have been very happy with them over the years. My only point in mentioning their name is that you can go to their web site and see what very well may be the future.

I have no other thoughts as to what the next revolution in the legal industry may be. However, you can bet that technology will dramatically alter the terrain for the practice of law in the 20 years. 📧

Dave Hagen is a principal at Merritt & Hagen. The firm's practice focuses on representing individuals and small businesses in bankruptcy. David Hagen can be contacted at (818) 992-1940.

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Settling Employment Cases, continued from page 15

This section only applies prospectively, to awards or settlements reached after the adoption of the Act. All mediators working in the field of employment should be aware of this benefit and clarification in crafting a comprehensive settlement of these sophisticated cases.

Supreme Court's Decision on Taxability of Attorney's Fees in Employment Cases

On January 24, 2005, the U.S. Supreme Court handed down the much awaited decision in *Commissioner of Internal Revenue v. John W. Banks, II* (03-892) and *Commissioner of Internal Revenue v. Sigitas J. Banaitis*, (03-907). Under the Supreme Court decision, the plaintiff must include in income the amount of the award ultimately payable to the attorney under the contingency agreement. Therefore, the above-the-line deduction for attorney's fees in unfair discrimination suits is particularly important.

Careful Attention to Tax Implications Can Make Settlements More Appealing to Both Sides

The way in which the claims are made, and the terms of the ultimate settlement can save or cost the plaintiff and the attorney thousands of dollars. A savvy mediator should be aware of these issues and be armed with the right questions to raise in order to maximize the satisfaction of the parties with their ultimate resolution.

Many cases are settled with the tacit recognition that none of the lawyers present at the mediation hearing really understand the tax treatment, and therefore the defendant employer will agree to whatever proposal or tax treatment plaintiff's counsel demands, in exchange for a "hold harmless" from the plaintiffs, with the proviso that plaintiffs will be directed to seek tax advice from her accountant. This can be a dangerous route. For instance, the claimant's counsel may prefer that there not be withholding, but the employer's tax counsel, who is neither consulted nor present at the hearing, may later insist upon withholding. As a result, the claimant's counsel may refuse the deal, after computing the net amount payable, on grounds that it is no longer adequate compensation for the alleged wrongdoing to his client.

This issue on the one hand has gotten simpler, and on the other been made more complicated. Be sure to fully inform yourself and your client before attending a mediation on these critical issues, or carefully choose a mediator who specializes in this field and can assist you in navigating through these final concerns before "inking" the deal. ♣

Jan Frankel Schau is a private mediator and employment arbitrator in Encino. She can be reached at (818) 379-1789 or www.valleymediationservices.com. She wishes to thank LaVonne Lawson, tax and business attorney for enlightening her and contributing to this article.

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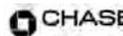


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Date: June 3
Time: 9:15 a.m. to 1:30 p.m. Program and Lunch
Place: SFVBA Conference Room, Woodland Hills
Cost: \$55 SFVBA Members Pre-Paid; \$75 Members at the Door; \$75 Non-Members Pre-Paid; \$95 Non-Members at the Door
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Small Firm & Sole Practitioner Section

Topic: Should My Firm Take Credit Cards? The Cost/Benefit Ratio

Panel: Leonard Comden, Esq., Christie Ellis, comptroller, Wasserman Comden et al. Jim Wilson, President, Terminal Velocity Processing

Date: June 8
Time: 12:00 Noon
Place: SFVBA Conference Room, Woodland Hills
Cost: \$20 members prepaid; \$25 at the door; \$25 non-members prepaid; \$30 at the door
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ADR Section

Topic: Keep It in the Family: Resolving Family Business Disputes Before Litigation

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Probate & Estate Planning Section

Topic: Federal Estate and Gift Tax Audit Issues

Speaker: Richard Ullman, IRS Program Manager, Estate & Gift Tax
Date: June 14
Time: 12:00 Noon
Place: Encino Glen Restaurant, Encino
Cost: \$30 members prepaid; \$35 at the door; \$35 non-members prepaid; \$40 at the door
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Speaker: Solomon Perló, M.D.
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Litigation Section

Topic: Premises Liability: Ask the Expert

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Intellectual Property, Entertainment & Internet Law Section and Litigation Section

Topic: Insurance Coverage in Intellectual Property Matters

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Date: June 17
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Topic: Impact of Bankruptcy Law Changes on Family Law Cases

Panel: Commissioner Patricia Ito; David Hagen, Esq.; Russell Rapoport, Esq.
Date: June 27
Time: 5:30 p.m.
Place: Encino Glen Restaurant, Encino
Cost: \$40 members prepaid; \$45 at the door; \$45 non-members prepaid; \$50 at the door
MCLE: 1 Hour

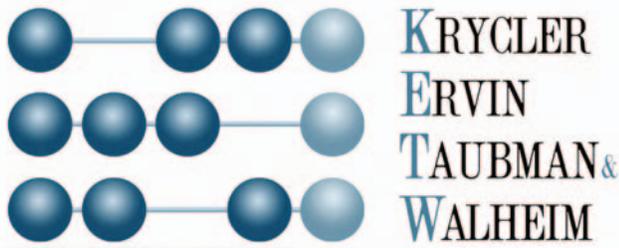
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Food and beverages served at every MCLE event!

* Please note that no credit will be given unless notice of cancellation is provided 48 hours before scheduled event



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