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A Look Back...A Look Forward

KIRA S. MASTELLER
SFVBA President



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FROM PROVIDING BLANKETS AND MUCH-NEEDED personal hygiene items to the homeless, to hosting thought-provoking legal dramas and court tours for middle school, high school and college students, the San Fernando Valley Bar Association, along with our charitable arm, the Valley Community Legal Foundation, has had a truly meaningful impact on our local community over the past year.

One recent event we're particularly proud of was our presentation of \$1,100 scholarships to three recent graduates of James Monroe High School Law & Government Magnet. I was so impressed with all of the students and the personal stories they shared on their scholarship applications that made the selection process particularly difficult. The three award recipients have diverse backgrounds that have defined their goals in different ways but are connected by a common thread—namely, helping their families and helping others.

One award recipient, a child of immigrant parents living in a low-income area, grew up witnessing her neighbors face discouraging legal obstacles. The experience moved her to pursue a career in the law and service to those needing access to legal help in low-income neighborhoods. She is currently volunteering at the Eviction Defense Network to learn first-hand the job of an attorney dedicated to helping the disadvantaged, and will be attending Smith College in Massachusetts in the fall.

The second award recipient is headed to UCLA, with an eye on law school and an understanding that education forms the core of a well-rounded individual, as well as gratitude that she now has an opportunity that her parents were never afforded. The third award recipient is headed to Berkeley, determined to become an attorney after enjoying her strong suits in school, namely law and government.

These award recipients, and the students of all the schools we support, fill me with hope for the future. Each and every one is motivated, hardworking and brilliant, striving to excel in the legal profession. I know they will make a difference.

We strive to give each of our members an opportunity to participate in a variety of fulfilling ways. Every member of the SFVBA and the VCLF is more than welcome to participate in any of the Bar's many impactful programs and activities. If, for example, you're interested in speaking about your career at schools or job fairs, mentoring at a court tour with students, or being part of a public presentation on legal topics such as immigration law, healthcare, or elder abuse, please contact our Bar office.

Lastly, we invite you to attend the Bar's frequent networking, inclusion and diversity events, as well as its section meetings and MCLE presentations.

All in all, a very good year with many more to follow. 🏠

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Worthy Candidates for Worthy Work

THIS PAST YEAR HAS, FOR want of a better word, evaporated. The 2016-2017 Bar year is nearing its conclusion and once again, your Bar calls you to the colors. The SFVBA does important work, not only for the legal profession, but for the Valley community as a whole and in a few weeks you'll have the chance to select those who will navigate the Bar through the rocks and shoals of the coming year.

Please take some time to look over the roster of talented and dedicated attorneys who are seeking election to the SFVBA Board of Trustees and exercise your right as a member of the SFVBA to vote and place your stamp on what the Bar accomplishes during the coming year.

The actual election begins next month when attorney members will be able to cast votes electronically.

Eviction is, well, not a very pleasant thing to ponder. It tends to evoke black-and-white, Chaplin-esque images of a destitute family huddling in desperation in the snow looking on as the landlord's enforcer oversees the rude relocation of the few sticks of furniture and what little else they own reduced to a jumbled heap of debris on the icy sidewalk. The neighbors observe, whispering.

The reality, though emotionally equally compelling, is somewhat more complicated as attorney Robin Paley lays out in his article on the rights and responsibilities of both landlords and tenants vis-à-vis evictions and what, exactly, constitutes a legal dwelling.

MICHAEL D. WHITE
SFVBA Editor



michael@sfvba.org


According to Paley, "There are several legal reasons for eviction, but if the eviction is not due to the fault of the tenant, the landlord is subject to various requirements to enact the eviction."

One of the reasons an eviction is not the fault of the tenant, he says, "is if the tenant has been ordered to vacate the unit or building by a governmental agency because of a legal violation"—that is, the said unit being unpermitted or unregistered or both.

"When all is said and done, though," he writes, "the key takeaway for tenants is even simpler. They must know their rights. Ultimately, these takeaways boil down to an even easier concept to remember—landlord beware, tenant be aware." That's good advice for all concerned.

This month, member Stephen McLeod's MCLE piece carefully examines how the execution of deeds and characterization of property can impact the dissolution of a marriage and why couples should agree to the terms of, and sign a deed to community property, at the time of the creation of trusts.

Topics covered in the article include the transmutation of real property, undue influence, fault and conveyance by deed, and improper transfer between spouses.

As we hope with every issue of *Valley Lawyer*, we sincerely hope that you will be better informed and educated when you lay the magazine down than you were before you picked it up. 



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						1
2	3 Valley Lawyer Member Bulletin Deadline to submit announcements to editor@sfvba.org for August issue.	4 July 4th Fireworks Extravaganza WARNER CENTER PARK Sponsored by  San Fernando Valley Bar Association	5	6 Membership & Marketing Committee 6:00 PM SFVBA OFFICE	7	8
9	10  5:30 PM CHABLIS RESTAURANT TARZANA	11	12	13	14	15
16	17	18	19	20 Litigation Section Press Releases and Lawsuit Publicity 11:30 AM SFVBA OFFICES What do you as the attorney need to know about publicity from before filing a lawsuit to post judgment. Public relations professional Howard Breuer will address these issues and more! (1MCLE Hour)	21	22
23	24	25 Editorial Committee 12:00 NOON TONY ROMA'S	26	27 Inclusion & Diversity Committee Dinner at My Place 6:30 PM VALLEY VILLAGE See ad below	28	29 New Lawyers Section Group Hike 8:30 AM TEMESCAL CANYON All are welcome to join us in the great outdoors! Be sure to bring water and sunscreen!
30	31					

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It Takes a Village (or a Bar)

ELIZABETH POST
Executive Director



epost@sfvba.org

ON JUNE 16, THE SFVBA CELEBRATED ITS Member Appreciation Dinner at The Stand in Encino. The event has become an annual tradition for Board members and staff to socialize with, and thank, our members for their patronage and membership over dinner and drinks in a relaxing environment. But the Bar's demonstration of appreciation does not extend to just one night a year.

I want to share a story about a problem the Bar office experienced earlier this month. During the first week of June, our phone system endured recurring outages, dropped calls, and busy signals. Although the Bar staff was able to communicate via email and cell phone, it was very disappointing that we were unable to assist our members and the public in the professional manner they have come to expect from our office.

Over the course of a week, the Bar staff worked around the clock with our communications providers and phone carriers to resolve the problem. Every day, it seemed, we were given a glimmer of hope—being told the problem was

found and our phones would soon be up and running—without much to show for it. After one too many false starts, a decision was made on a late afternoon to blast our membership with an update of the situation and the senior staff's cell phone contact numbers.

In addition to many replies of encouragement, within a very short period of time, I received emails from members with instructions to get in touch with the Public Utilities Commission, a contact within our carrier's legal department, and an offer of help from a member employed in-house for one of our service providers. She was able to prioritize our problem within the company and, by the time I arrived at our office early the next morning, our telephone service was up and operating. I later found out that our phone carrier had technicians working through the night to repair our phone line.

I want to recognize and thank SFVBA members Lala Asadorian, Neil Sunkin and Suzanne Rand-Lewis for their assistance in reaching out to the Bar Association, and me personally, with much-needed help in a time of great need. 🗑️



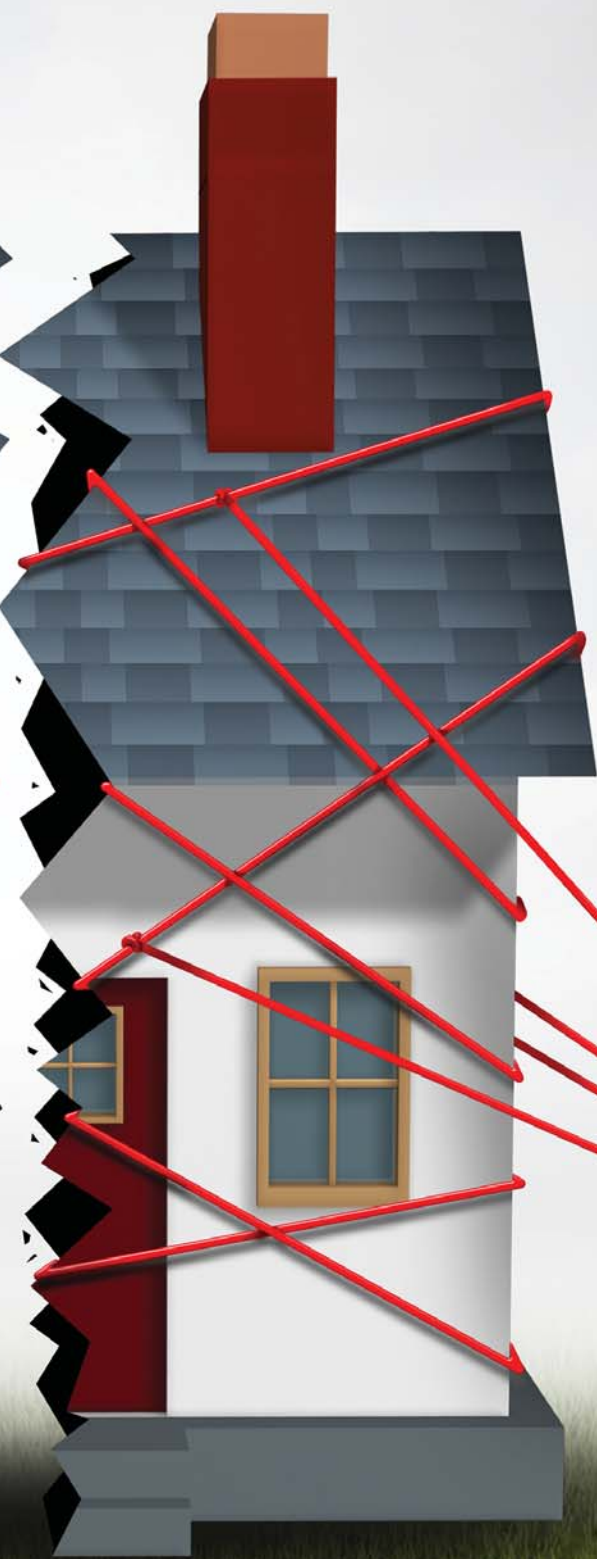


By reading this article and answering the accompanying test questions, you can earn one MCLE credit. To apply for the credit, please follow the instructions on the test answer form on page 19.

Transmutation by Deed: Issues and Impacts

By Stephen R. McLeod





It's critical that attorneys working in either family law or estate planning, as well as their clients, fully understand how deeds, their execution, and their impact on how property is characterized can impact the dissolution of a marriage and the apportionment of community property.



THE EXECUTION OF DEEDS AND THEIR EFFECT ON the characterization and apportionment of property can seriously impact the work of attorneys practicing in either family law or estate planning.

Transmutation of Community Real Property

California Family Code §852(a) provides that a transmutation of real or personal property is not valid unless it is detailed in an express written declaration that is made, joined in, consented to, or accepted by the spouse whose interest in the property is adversely affected.¹

In *Estate of Bibb*, a husband signed a deed to his separate property naming himself and his wife as joint tenants. He also filed by computer a change to his vehicle registration with the DMV, from his name to that of either him or his wife.² As to the deed, the court analyzed the Supreme Court case of *Estate of MacDonald*, which held that a wife signing a consent form to her husband's community property pension benefits placed into three IRAs in the name of the owner husband only did not constitute an express declaration of a change of ownership under Fam. Code §852 so that a transmutation had not occurred.³

However, in *Bibb*, unlike the pension consent, the deed was in writing and stated unequivocally that it granted the property to both husband and wife in the traditional wording of a transfer of an ownership interest in real property. It, therefore, met the requirements of Fam. Code §862(a).

Most deeds, whether grant deeds, quitclaim deeds or interspousal transfer deeds, employ the wording of "grant," "transfer," or "convey," any of which can reflect a transfer. However, in *Bibb*, the vehicle registration form did not since it was neither consented to by the spouse husband nor did it qualify as an express declaration of changing title.

Rebutting the Transmutation Argument

Assuming such a deed was signed, how can it be proved that no transmutation was intended?

Spouses owe a fiduciary duty to one another akin to the relationship of non-marital business partners.⁴ As stated in this section, the relationship is one of persons having a confidential relationship with one another. This confidential relationship imposes a duty of the highest good faith and fair dealing on each spouse, obligating both to never take unfair advantage of the other.

Further, Fam. Code §1100 imposes on spouses the fiduciary duties contained in Fam. Code §1100 until such

time as the assets and liabilities have been divided by the parties or by the court.

When an interspousal transaction advantages one spouse, the law, in consideration of public policy, presumes such transactions to have been induced by undue influence. Courts of equity . . . view gifts and contracts which are made or take place between parties occupying confidential relationships with a "jealous eye."⁵ The undue influence presumption, though, can be rebutted by a preponderance of the evidence.⁶

Although the cases address undue influence, they also characterize these intra-marriage transactions in terms of duress, coercion, fraud and the like. For instance, in *In re Marriage of Baltins*, the wife had seen several attorneys and was emotionally unable to confront her physician husband.⁷ She ultimately entered into a property settlement which the trial court set aside based on duress, extrinsic fraud, and error.

In *In re Marriage of Balcof*, the wife threatened divorce and that she would hamstring her husband's relationship with their children if he refused to prepare and sign a paper assigning interests in his separate property business and the family house to her.⁸ She directed what her husband was to write and she had a deed professionally prepared, while he had no input from legal counsel. The husband's state of mind made him susceptible to both undue influence and duress. The court found that the written agreement was not freely and voluntarily made and the agreement was invalidated as the wife did not rebut the presumption of undue influence.

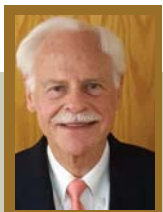
Improper Transfer between Spouses

There are four factors related to improper transfers between spouses that apply as to whether transmutation is valid.

Mental Capacity of the Party Conveying His or Her Interest

The mental status of the party conveying his or her interest and the weakened state of mind of the disadvantaged party plays a significant part in many cases.

These include *In re Marriage of Baltins*. As testified to by the wife, she was intimidated by her doctor husband and, in a mentally weakened condition due to anxiety and emotional anguish or exhaustion, was unable to defend herself.⁹ In *In re Marriage of Balcof*, the wife's threat that she would deny her husband access to their children rose to the level of duress.¹⁰ In *Marriage of Haines*, mounting tension and talk



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of divorce led to the husband's insistence that a deed that he had prepared at the last minute in order for him to sign for the wife's car loan was deemed, as the wife said, unfair.¹¹

As such, the conveyor must demonstrate that he or she lacked the mental capacity to freely and knowingly and with full knowledge of all of the facts, and with complete understanding of the effects of the transaction convey this property, which would divest him or her of a large share of his or her estate.¹²

Grossly Inadequate Consideration

Usually where such a deed is signed and delivered, there is no settlement agreement. If the transmutation was not an offset for some other asset or any kind of a property settlement agreement, it is suspect. For instance, if the deed was pieced together on the spur of the moment, as in *In re Marriage of Haines* or in *In re Marriage of Baltins*, where the husband maintained his medical practice, a commercial building, a large ranch, and two condominiums at Lake Tahoe valued at \$507,700, while the wife received assets valued at only \$63,000.^{13 14}

In *In re Marriage of Lange*, a \$250,000 promissory note and deed of trust taken by the wife for contributions to the husband's house that by trial had ballooned to \$870,000 was ruled invalid because of undue influence.¹⁵ In *In re Marriage of Balcof*, too, the signing of an agreement giving the marital residence—valued at \$2 million—and 20 percent of a separate property interest to wife was set aside as the product of undue influence.¹⁶ Finally, in *In re Marriage of Delaney*, a deed for a pre-marriage separate property house of unstated value was also found to be the product of undue influence.¹⁷

Superior Bargaining Position of the Benefitted Party

More often than not, the spouse advantaged by the transaction is the more "sophisticated" party. So, in *Estate of Nelson*, a sophisticated husband, a real estate broker, signed an agreement divesting his wife of an interest in an apartment house that was deemed invalid by use of the husband's superior guile.¹⁸ In *In re Marriage of Delaney*, the husband deferred to his wife's superior skills at financial and legal matters, and signed a deed adding her to the house he owned prior to their marriage.¹⁹ The court invalidated the deed as an unduly influenced transmutation.

In fact, where a deed has been signed, a spouse with a real estate license has an obligation to explain the legal significance of that deed to his or her spouse to establish a valid transmutation. In *In re Marriage of Bonvino*, where the real estate broker husband had the wife sign a deed to him as separate property—with his knowledge that property acquired during marriage was community property—the

husband failed to meet his obligation to explain it fully to his wife.²⁰

No Representation of the Conveying Party

Although this factor alone is not enough to set aside a deed, it is another factor the court must weigh in determining whether the transaction is tainted or not, especially when the other elements are present. Lack of independent advice, alone, is insufficient to support a finding that a party's consent was obtained by coercion, but can be weighed by the trial court in determining whether the party acted voluntarily and with a complete understanding of the transaction.²¹

In *Baltins*, the court of appeal characterized the lack of representation—as well as the fact the wife only received 15 percent of the community property and inadequate support—as duress. Distinguish this from other cases where the parties involved have some form of representation, such as *In re Marriage of Burkle*, where the parties had been represented and where a substantial post marital property settlement agreement had been entered.²² Ms. Burkle had argued that she had been cheated out of a larger portion of the proceeds resulting from a business merger after a cadre of lawyers conducted discovery and she received significant benefits under the agreement. The court refused to set aside the settlement agreement. A similar finding was passed down in *In re Marriage of Kierturakis*, where the parties entered a mediated marital settlement agreement and the court found no equitable basis to set aside the judgment.²³

From these cases, it can be gleaned that where there is an unfair result and there are no attorneys to vet the legal process, it is highly likely that undue influence, duress or even coercion will be found.

Other Equitable Doctrines May Validate a Deed

If benefits have been received for signing the deed, there is the possibility of a court finding either ratification or estoppel. If too much time has passed, laches may apply since there was an unreasonable delay.²⁴

Rebutting the Presumption of Undue Influence

In re Marriage of Matthews provides an example of a deed that was validated in spite of the presumption of undue influence.²⁵ In that case, the Japanese wife signed a quitclaim deed for a common reason—to get a better interest rate because of her poor credit rating. Her willingness to ask questions, the fact that she was the family money manager and handled her own finances, the lack of pressure from her husband, her fluency in English, and her assumption that her husband would add her to the title, rebutted the presumption of undue influence. (See *In re Marriage of Starr* for a contrary result where such a representation was made.)²⁶

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Fault and Conveyance by Deed

In some cases, an errant husband or wife may sign a deed on demand of his or her spouse. But fault such as infidelity or drug addiction cannot, alone, support consideration for the deed. *Diosdado v. Diosdado* is instructive in terms of not allocating fault in such a situation.²⁷

In that particular case, after the husband had been caught cheating on his wife, both arrived at an agreement to resume their marriage and be faithful, and if not, any sexual impropriety would result in the obligation for liquidated damages, including the payment of mandatory attorney's fees. When the husband strayed again, the wife sued for divorce and later sued for violation of the contract.

After a judgment granted on the pleadings, the Court of Appeal addressed the question if such an agreement could be considered valid. The court ruled that according to Family Code §2335, with certain exceptions such as child custody or restraining orders, evidence of specific acts of misconduct is improper and inadmissible in a pleading or proceeding for dissolution of marriage.


In short, fault is simply not a relevant consideration in the legal process by which a marriage can be dissolved. Recovery in no-fault dissolution proceedings is basically limited to half of the community property and appropriate support orders, but no hefty payout for emotional angst.²⁸

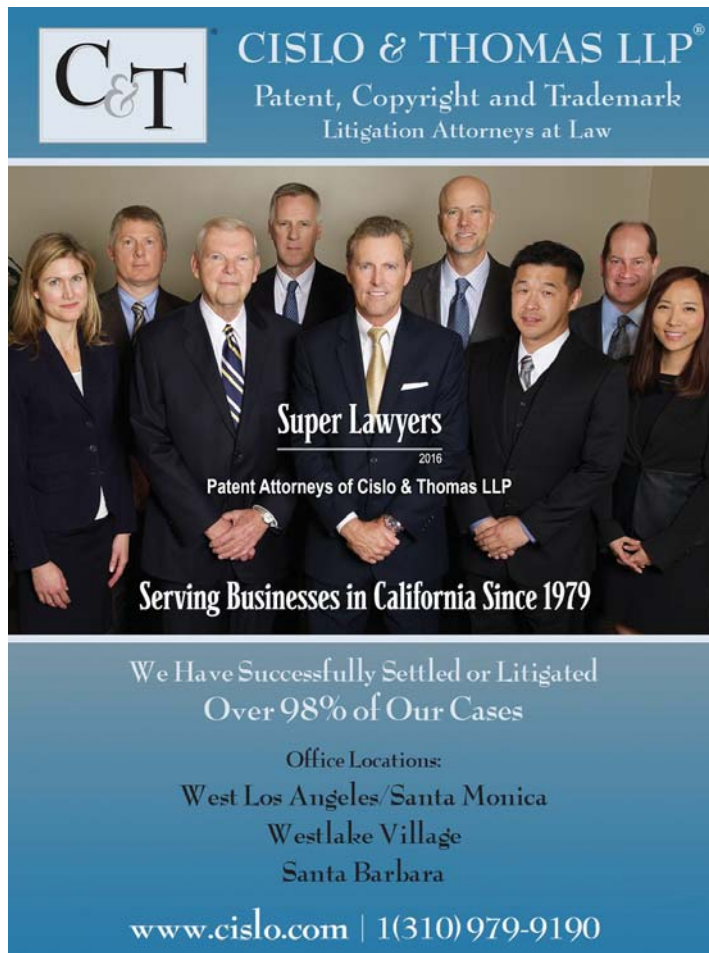
As to drug addiction justifying a deed, a similar case is found in *In re Marriage of Mehren & Dargan*.²⁹ Thus, any suggestion that fault will support a deed is likely not accurate.

Deeds Have Consequences

For both family law practitioners and estate planners, deeds do have consequences as to characterization of property. The importance of this rests on what most homes represent—a habitation to live in during retirement and draw needed income through a reverse mortgage, for example.

Deeds also represent the primary manner in which middle class homeowners are able to pass on wealth to their children. For family law attorneys, deeds are often drawn-up where one spouse has bad credit, and it's likely such a deed is a transmutation of the character of the property. The evidence to rebut the presumption of undue influence needs to be developed based on the facts of each case.

For estate attorneys, the conveyance of property to community property status for the purpose of minimizing capital gains taxes, as is often done at time of the creation of a living trust, should be done only where the significance of such a change is fully explained to and understood by the clients.³⁰ 



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¹ This article does not deal with reimbursements under Fam. Code §2460(b), but counsel is reminded to give consideration to possible reimbursements where there is no written waiver as to reimbursements.

² *Estate of Bibb*, 87 Cal.App.4th 461 (2001).

³ *Estate of MacDonald*, 51 Cal.3d 262 (1990).

⁴ Fam. Code §721(b).

⁵ *In re Marriage of Haines*, 33 Cal.App.4th 277, 293-294 (1995).

⁶ *In re Marriage of Haines supra* at 302.

⁷ *In re Marriage of Baltins*, 212 Cal.App.3d 66 (1989).

⁸ *In re Marriage of Balcof*, 141 Cal.App.4th 1509, 1520-1521 (2006).

⁹ *In re Marriage of Baltins supra* at 85.

¹⁰ *In re Marriage of Balcof supra* at 1523-1524.

¹¹ *In re Marriage of Haines supra* at 284 and 296.

¹² *Id.* at 296 (quoting from *Brown v. Canadian Indus. Alcohol Co.*, 209 Cal. 596, 598 (1930)).

¹³ *In re Marriage of Haines supra* at 284.

¹⁴ *In re Marriage of Baltins supra* at 76.

¹⁵ *In re Marriage of Lange*, 102 Cal.App.4th 360 (2002).

¹⁶ *In re Marriage of Balcof supra* at 1514.

¹⁷ *In re Marriage of Delaney*, 111 Cal.App.4th 991, 999 (2003).

¹⁸ *Estate of Nelson*, 224 Cal.App.2nd 138, 143 (1964).

¹⁹ *In re Marriage of Delaney supra* at 1000.

²⁰ *In re Marriage of Bonvino*, 241 Cal.App.4th 1411, 1420 (2015).

²¹ *In re Marriage of Baltins supra* at 85.

²² *In re Marriage of Burkle*, 139 Cal.App.4th 712 (2006).

²³ *In re Marriage of Kierturakis*, 138 Cal.App.4th 56, 85 (2006).

²⁴ *In re Marriage of Burkle supra* at 751-754.

²⁵ *In re Marriage of Matthews*, 133 Cal.App.4th 624 (2005).

²⁶ *In re Marriage of Starr*, 189 Cal.App.4th 277 (2010) (a similar representation was made in *In re Marriage of Bonvino supra* at 1419).

²⁷ *Diosdado v. Diosdado*, 97 Cal.App.4th 470 (2002).

²⁸ *Id.*

²⁹ *In re Marriage of Mehren & Dargan*, 118 Cal.App.4th 1167 (2004).

³⁰ As to deeds, a recent case of the problem with deeds conveyed to community property in estate planning is contained in *Yale v. Bowne*, 9 Cal.App.5th 649, 656 (2017). Aside from deeds, estate counsel should also be cautious about clauses characterizing assets as being changed or transmuted to community property, which again should be explained to clients. *In re Marriage of Holtemann*, 166 Cal.App.4th 1166, 1172-1173 (2008).



Test No. 105

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

1. The standard for a valid transmutation of marital property is found in Family Code §852a.
☐ True ☐ False
2. An interspousal transfer deed from one spouse to another is a valid transmutation.
☐ True ☐ False
3. Filing a change of title with the DMV on the computer is a valid transmutation.
☐ True ☐ False
4. Filing a consent form to a change of beneficiaries of a pension plan is a valid transmutation.
☐ True ☐ False
5. Spouses are always fiduciaries but they are not necessarily in a confidential relationship.
☐ True ☐ False
6. Spouses owe a fiduciary duty to one another until such time as assets and liabilities have been divided.
☐ True ☐ False
7. Interspousal transfers are presumed to be the product of undue influence.
☐ True ☐ False
8. The undue influence presumption must be rebutted by clear and convincing evidence.
☐ True ☐ False
9. The threat concerning frustrating visitation can support an argument of undue influence in the signing of a deed.
☐ True ☐ False
10. The mental state of the party who has conveyed his or her interest is judged by an objective standard of what they should have known or understood.
☐ True ☐ False
11. Grossly inadequate consideration will defeat a deed by one spouse to another.
☐ True ☐ False
12. The spouse who controls the family finances is less likely to be the recipient of a finding of undue influence.
☐ True ☐ False
13. A realtor spouse who is the recipient of a deed has no obligation to explain that deed to the conveying party.
☐ True ☐ False
14. The fact that a party who signed a deed was not represented by an attorney will invalidate such a deed.
☐ True ☐ False
15. The doctrine of estoppel may apply if some benefit has been received by a spouse signing a deed.
☐ True ☐ False
16. If a spouse who signs a deed did so because of his or her poor credit rating to get a better interest rate, such a deed is an invalid transmutation.
☐ True ☐ False
17. A deed will be deemed valid where a philandering husband or wife has agreed such conduct will support the deed.
☐ True ☐ False
18. A spouse inducing the other spouse to sign a deed on a promise that they will subsequently be placed on a deed after refinance will validate a claim of undue influence.
☐ True ☐ False
19. The validity of an interspousal deed is dependent on the facts of each and every case.
☐ True ☐ False
20. An estate planning attorney who conveys the family residence into community property prior to conveying to a trust need not explain the consequences of such a conveyance to his or her clients.
☐ True ☐ False

MCLE Answer Sheet No. 105

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 \$20 testing fee for SFVBA members (or \$30 for non-SFVBA members) to:

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METHOD OF PAYMENT:

- ☐ Check or money order payable to "SFVBA"
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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.

- | | | |
|-----|-------------------------------|--------------------------------|
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| 2. | <input type="checkbox"/> True | <input type="checkbox"/> False |
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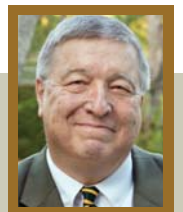
Meet Your 2017 Trustee Candidates

By Michael D. White



Next month, SFVBA members will have the opportunity to elect a new Board of Trustees from among a slate of highly qualified and dedicated candidates. On the following pages, we profile each Trustee candidate and give members the opportunity to gain some perspective into their individual goals and aspirations for the Bar over the coming year, as well as what makes each one particularly qualified to serve and lead.

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





REAGAN E. BOYCE

LAW SCHOOL: Southwestern Law School

AREA(S) OF PRACTICE: Bankruptcy and insolvency litigation

YEARS IN PRACTICE: 10

SFVBA MEMBER SINCE: 2017

Why did you choose a career in the law?

I chose a career in the law because corporate counsel for a former employee convinced me that I would do well in this field.

What's been your most memorable career moment so far?

My most memorable career moment came during my second year in practice where I second chaired a civil trial (medical malpractice) and the jury returned a favorable verdict (defense) in 20 minutes.

What do you do for fun? Sudoku puzzles.

What's your favorite book genre?

Science fiction/fantasy, a nice counter balance to the reality of everyday work.

What made you decide on your specific area of practice?

I fell into bankruptcy litigation four years ago and found it very enjoyable because of the variety, and because I get to learn new areas or aspects of law all the time.

What was your childhood career goal?

To be the first woman president.

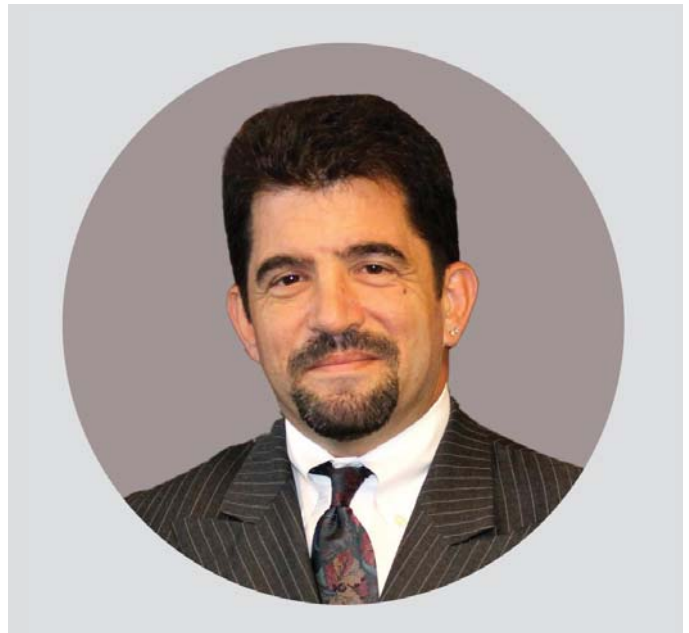
What's your favorite legal film? "My Cousin Vinny."

A relatively new member of the SFVBA, Boyce has already participated in a number of Bar community events and community service projects, including Judges' Night and its Blanket the Homeless campaign.

An Associate with Brutzkus Gubner Rozansky Seror Weber LLP in Woodland Hills, she began developing her litigation skills as an extern to the Hon. Terry J. Hatter, Jr., Senior Judge of the U.S. District Court for the Central District of California during her two-year law school program, and her post-graduate fellowship awarded by American Board of Trial Advocates (ABOTA). Reagan currently serves as an Adjunct Associate Professor at Southwestern Law School's Graduate Academic Program.

A member of the Board of the Southwestern Alumni Association Board of Directors, Reagan is licensed to practice law in Texas, as well as California, where she has litigated before the Ninth Circuit Court of Appeals and the U.S. District Court for the Central and Northern Districts of California.

She credits her experience she's gained on the Southwestern Law School Board with giving her the tools to get things done on the SFVBA Board. "I'd like to increase networking opportunities for members based on different criteria or non-legal interests, with a special emphasis on younger attorneys," she says.



MATTHEW A. BREDDAN

LAW SCHOOL: University of La Verne College of Law

AREA(S) OF PRACTICE: Family law

YEARS IN PRACTICE: 20

SFVBA MEMBER SINCE: 1998

What do you do for fun?

In my leisure time I like to listen to live music. My friends' band, Wayward Sons, is one of my favorites. I also enjoy spending time with my sons, who are both in college.

What's your favorite book genre?

Fiction (legal drama, horror). They paint such vivid pictures and allow the imagination to take over.

What made you decide on your specific area of practice?

Ironically, I did not decide on this area of practice—family law. I like to say, it chose me.

How did you react when you found out you'd passed the bar exam?

At first I didn't believe it. I had to re-read my name several times. Then I was overcome with a flood of emotions.

A self-described problem solver, Breddan is noted for his ability to work well with people—a skill manifested by his active participation with the parent booster club at Agoura High School, organizing blood drives for the Red Cross, regularly sitting as a mediator and pro tem across Los Angeles County, and memberships in the Ventura County and Los Angeles County Bar Associations.

"I originally intended to seek a career in law enforcement," says Breddan, a Partner with The Reape-Rickett Law Firm in Calabasas. "I decided to go to law school in my junior year in college because I knew I wanted a family and realized this was a far safer career path."

Safer, but equally rewarding as he recalls his most memorable career moment being when he reunited a father, wrongfully accused of abuse, with his child. "He wept afterward and asked if he could hug me," he says. "This was many years ago, and we are still in touch to this day."

A current member of the SFVBA Board of Trustees, Breddan says that if re-elected, he would become "far more involved in the committees and help bring more people into the Bar," which he describes as "very active and collegial," adding that "some of the other organizations that I belong to seem far more starchy."

**D. SHAWN BURKLEY**

LAW SCHOOL: St. John's University School of Law

AREA(S) OF PRACTICE: Civil litigation, criminal defense

YEARS IN PRACTICE: 1

SFVBA MEMBER SINCE: 2015

What do you do for fun?

I was a professional musician for years, so I still relax with that. I also tend to still travel quite a bit for pleasure. My secret, nerdy, form of escapism is writing articles on questions of law that interest me. I've been lucky enough to have Valley Lawyer publish a few of them.

What's your favorite vacation spot?

I like to get back to France and Switzerland when I can. (I lived there for several years and so it's good to see old friends.) For shorter trips, I tend to go to the West Coast of Florida or visit my sister in New Orleans.

What's your favorite legal film?

I am a sucker for the oldies: "To Kill a Mockingbird," "Twelve Angry Men," "Anatomy of a Murder." Does "And Justice for All" count as an oldie?

If not the law, what would be your second career choice?

I've had plenty of other careers, and becoming a lawyer was hard enough to confirm that there was no viable "Number 2 career choice." But, if I had to choose, I think something in diplomacy or international relations could be equally fulfilling.

Studying law at St. John's, Burkley experienced involvement in bar associations like the New York County Bar Association, and the New York State and City Bars "that tend to operate on a different order of magnitude due to their size," says Burkley. "The SFVBA is, in my opinion, more nurturing of its membership because it's more familial and intimate nature."

Burkley, a sole practitioner in Sherman Oaks, would also like to "investigate the ways technology might help the Board further certain projects. For example, I am a big supporter of the L.A. Law Library downtown. I believe that we might be able to emulate that in the Valley with slightly less overhead if we approach it intelligently."

Active in the SFVBA's Valley Community Legal Foundation, Burkley would like to serve as a conduit between the Board and the VCLF to create greater cohesion between the two. "If elected, I'd continue to work towards that goal."

What is it about the law the Burkley finds appealing? "It may sound a little trite, but I really do enjoy helping people navigate people through situations that can be very intimidating," he says. "When I decided to reorient my career towards something that I would find more fulfilling, the first questions I asked myself was, 'Well, what makes you feel good? What are the things you volunteer to do, or would do without being asked?' The answer was 'helping people.'"

Given the option of practicing law in several locales, Burkley chose the San Fernando Valley. "This is where I grew up," he says. "I've been lucky enough to travel and live in a lot of different places but there is something special about returning to a familiar place and the Valley is going through huge changes right now. It's exciting to watch. My girlfriend jokes that the Valley is the 'new Brooklyn.'"



MICHAEL W. DAVIS

LAW SCHOOL: University of Southern California Gould School of Law

AREA(S) OF PRACTICE: Bankruptcy and civil litigation

YEARS IN PRACTICE: 6

SFVBA MEMBER SINCE: 2016

What's been your most memorable career moment so far? *My most memorable career moment so far was appearing before the United States Bankruptcy Appellate Panel of the Ninth Circuit and arguing the case in front of Bankruptcy Judges Kirscher, Kurtz, and Dunn. It stands out to me because I vividly recall oral argument, with the three judge panel all asking very detailed questions. Ultimately I prevailed and the decisions below in favor of my client were affirmed.*

What do you do for fun? *My fiancée and I enjoy salsa dancing. I am also very into tech/gadgets, so I spend a lot of my free time tinkering with things to learn how they work (and sometimes, how they don't).*

What's your favorite book genre? *Science fiction. It always strikes me as amazing how science "fiction" can frequently become science "fact." I have always been into science, engineering, space, etc. I really enjoy science fiction because it provides a glimpse into sometimes realistic predictions for our future.*

If not the law, what would be your second career choice? *Engineer/Scientist. Probably a tie between robotics engineer, and/or computer scientist.*

How did you react when you found out you'd passed the bar exam? *I was elated. Like many others, I had devoted a substantial amount of time, effort, and resources towards realizing my goal of becoming an attorney. The bar exam is like the last leg of a grueling marathon. I was very happy to have passed and move forward towards my career as an attorney.*

In practice for the past six years, Davis worked briefly for a small firm prior to joining Brutzkus Gubner in April 2011.

Specializing in bankruptcy and civil litigation and motivated by a self-described "passion for community service," he regularly volunteers at the San Fernando Valley Bankruptcy Court Self-Help Desk and serves as a member of the Insolvency Law Committee of the State Bar's Business Law Section. He is also in the running for a position on the Board of the California Bankruptcy Journal.

"As a member of the Bar's Board of Trustees, I'd like to help get some of my younger colleagues involved and expand community service opportunities, as well as work towards a more diverse Bar," says Davis.

Personally, Davis "would like to get involved in pro-bono work—not only participating, but trying to get others to, as well. I currently volunteer for the SFVBC Self-Help desk, and I find my time spent there really rewarding. I think that many others would find that they enjoy volunteering if they gave it a shot."



PETA-GAY GORDON

LAW SCHOOL: University of Southern California Gould School of Law

AREA(S) OF PRACTICE: Trusts, estates, conservatorships, estate planning

YEARS IN PRACTICE: 11

SFVBA MEMBER SINCE: 2006

What differentiates the SFVBA from other Bars you're acquainted with? *Very welcoming*

What do you do for fun? *Attend concerts, go to the movies, try new restaurants.*

What's your favorite book genre? *Gothic Fiction. I enjoy supernatural and paranormal lore.*

What's your favorite vacation spot? *Barcelona*

What's your favorite legal film? *Legally Blonde*

What do you do in your free time? *Netflix and chill*

How did you react when you found out you'd passed the bar exam? *I double and triple-checked the results because my name was spelled incorrectly.*

Gordon has been in practice for nine years and joined Oldman, Cooley, Sallus, Birnberg & Coleman in February 2006. She was named a partner with the firm in March 2013.

She earned her undergraduate degree in international relations and psychology from Claremont McKenna College. While at USC Law School, she served as Development Editor for the Southern California Review of Law and Women's Studies. She was admitted to the California State Bar in 2005.

Gordon is a member of the Encino Lawyers Association, the Women Lawyer's Association of Los Angeles, the Trusts and Estates Sections of the Los Angeles County Bar Association and the San Fernando Valley Bar Association, the USC Gould School of Law Alumni Association Board, and the Jamaica Awareness Association of California.

An incumbent Trustee, she has participated in the Bar's Member Appreciation Day and Probate and New Lawyers Sections events.

Gordon feels that her strengths and talents "include diligently performing organizational tasks, including implementing projects and programs.

"I would like to help the SFVBA continue its efforts to attract new attorneys, increase its visibility and secure its reputation in the community at large, and serve as a conduit between those in need of assistance and attorneys who can provide it," she says.



ALEXANDER J. HARWIN

LAW SCHOOL: Loyola Law School

AREA(S) OF PRACTICE: Employment and labor law, business litigation

YEARS IN PRACTICE: 14

SFVBA MEMBER SINCE: 2003

What differentiates the SFVBA from other Bars you're acquainted with? *A personal connection to be near the people that I grew up and now live around.*

Why did you choose a career in the law? *I like solving mysteries.*

What's been your most memorable career moment so far? *Handing a portable video player to my opposing counsel just before the end of a settlement conference with the parties far apart in the hall of the downtown courthouse so that she and her client could watch a video I obtained contradicting every claim her client had made and then hearing her yell at her client "What the hell is this!" The matter resolved a few minutes later.*

What do you do for fun? *I coach little league basketball, incorporating my strategic legal skills into teaching 7 and 8 year-olds ball handling, all forms of man-to-man and zone defenses, pick and rolls, clock management, and proper defensive positioning/stances.*

What was your childhood career goal? *NBA General Manager. I definitely possess the necessary skills and regularly use them evaluating players trying out for little league basketball.*

What do you do in your free time? *What is free time?*

A downtown lawyer with a heart rooted in the San Fernando Valley where he was born and raised, Harwin has made a commitment to promote the local professional community which he calls home. He was appointed to the SFVBA Board of Trustees in 2014.

"On a personal level, I was attracted to the SFVBA's philanthropic endeavors and the fact that my children could actively participate in events such as Blanket the Homeless," he says. "On a professional level, Valley attorneys should expect that being an SFVBA member has business generation value."

Indeed, when considering the benefit of membership, Harwin highlights the personal connections offered by bar associations that can't be replicated elsewhere. It's those tangible relationships which he considers to be the Bar's strongest appeal.

As a Partner at Lewis Brisbois Bisgaard & Smith LLP, Harwin's practice concentrates on advising and defending employers from claims of wrongful termination, discrimination and wage violations. "My clients recognize the personal investment I make in their cases and, more importantly, in their well-being. For example, I personally perform my own investigative work and frequently knock on doors to find and gain the trust of valuable witnesses. It is with the same enthusiasm that I became active with the SFVBA. After our first family home purchase, it was both personally and professionally prudent to become more Valley-centric."



AMANDA MARIE MOGHADDAM

LAW SCHOOL: Southwestern Law School

AREA(S) OF PRACTICE: Liability defense, legal malpractice

YEARS IN PRACTICE: 6

SFVBA MEMBER SINCE: 2013

What do you do for fun? *I enjoy hiking with my husband and son. I am also an amateur pie baker.*

What are your goals if elected to the Board? *I look forward to meeting as many SFVBA members as possible and learning ways to deepen members' connections to the Bar. I think it's important that attorneys are aware they are supported, have knowledge of the resources available to them, and learn about other members' experiences. I think that perspective on how the other half lives (or practices) is extremely important for one to have job satisfaction in this profession.*

What's your favorite legal film? *I have seen "A Few Good Men" at least 100 times.*

How did you react when you found out you'd passed the bar exam? *For some reason, the words "Your name will appear on the pass list" were in bright red when I checked online. The color red sent a "you failed" signal to my brain, and it took me a solid minute to realize that I had, in fact, passed. After a stiff drink, I think I was in bed by 10 p.m.*

Moghaddam began her legal career with a prominent medical malpractice defense firm. Since joining Nemecek & Cole in Sherman Oaks in 2013, she has represented plaintiffs and defendants in both state and federal courts in various areas of civil litigation, including professional liability, general liability, and interstate transportation matters. While attending law school, she argued a prisoners' rights appeal before the Ninth Circuit Court of Appeals, served on the Southwestern Law Review's Executive Editorial Board, and competed in two national moot court competitions.

Moghaddam, who "enjoys collaborating with others," graduated Magna cum Laude from Southwestern Law School and, as such, was a recipient of the prestigious CALI Excellence for the Future Award, presented by the Center for Computer-Assisted Legal Instruction. She is admitted to practice before the U.S. District Court for the Central District of California.

Her involvement in community service includes building homes in Tijuana, Mexico through Project Mercy and packing monthly lunches for the Burbank Temporary Aid Society.

The SFVBA "has many resources that are being underutilized. I would like to use my networking strengths and technological savvy to help lawyers better connect with the Bar and its social media pages," she says. "I think I have fresh ideas for getting more lawyers involved in the Bar and its programs, and I look forward to the opportunity to serve. I'm not shy about putting myself and my ideas out there for comment."



GEORGE N. SEIDE

LAW SCHOOL: University of La Verne College of Law

AREA(S) OF PRACTICE: Family law

YEARS IN PRACTICE: 25

SFVBA MEMBER SINCE: 2001

What differentiates the SFVBA from other Bars you're acquainted with? *Less impersonal, more neighborhood-ish, with more out of court person-to-person interaction.*

What's your favorite book genre?

Fiction. Courtroom dramas are more engaging as you have a visceral reaction to what you may have personally experienced in a courtroom.

What's your favorite legal film? *To Kill a Mockingbird*

What do you do in your free time? *Enjoying whatever free time I have with family and my new granddaughter.*

What was your childhood career goal?

Racecar driver

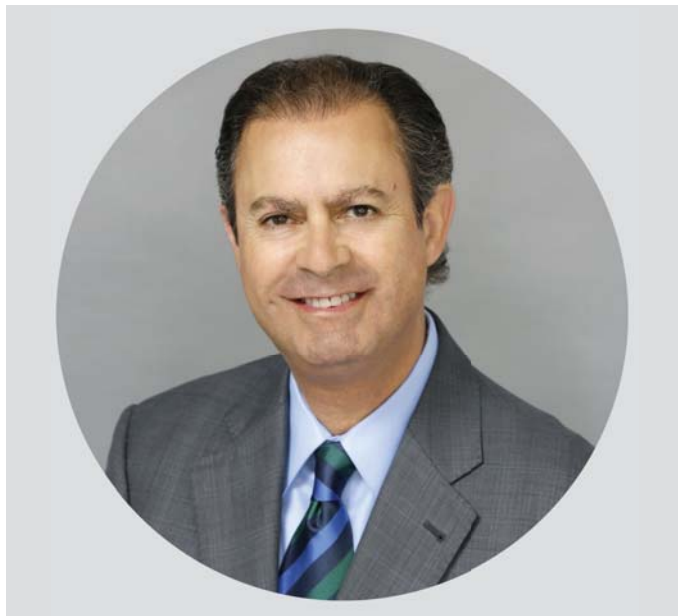
How did you react when you found out you'd passed the bar exam? *I found out through the Daily Journals' call in day. When told I passed, excitedly I blurted out, "You're kidding!" The responder calmly stated, "Sir, we don't kid about that."*

While in graduate school, Seide worked as the Director of Planning and Research in the Juvenile Investigation Section of a Florida county law enforcement agency. That experience led him to make the "logical and easy choice" of focusing on family law when the time came to set up his own practice.

As a sole practitioner in Calabasas, he has been involved in a number of activities, including service on the executive committee of the Family Law section of the California State Bar, as Chair of both the Family Law Executive Committee and the Counsel of Sections of the Association of Certified Family Law Specialists, and as a member of the SFVBA's Family Law Executive Committee for the past 13 years.

Seide currently serves as a volunteer family law mediator in Van Nuys Superior Court, and in the past, as a volunteer daily settlement officer with the Superior Court's Central District. His community volunteer work includes service with the Los Angeles Classical Ballet, the Synagogue for the Performing Arts, the Shriner's Hospital for Children's, and the Children's Hospital of Los Angeles.

Seide "would like to work toward increasing association membership by expanding perks with vendors, holding the line on costs, and adding significant benefits for the membership by enhancing the delivery of educational programs and material."



STEVEN M. SEPASSI

LAW SCHOOL: Southwestern Law School

AREA(S) OF PRACTICE: Civil litigation, insurance defense, mediation

YEARS IN PRACTICE: 22

SFVBA MEMBER SINCE: 1996

Why did you choose a career in the law?

After an engineering and management career in the aerospace industry, and operating a real estate finance company, I came to realize that in order to truly engage with people and to be able to help them, I needed to know the law. This is a country built on laws, and those who know the law can contribute to society in a meaningful way.

What's been your most memorable career moment so far? *While there have been many memorable moments in my career, perhaps the one that stands out was the day I received the court's Statement of Decision in my very first trial early in my career. It was a very complicated case involving an unmarried couple with ownership disputes in multiple properties, and I managed to handle it all on my own. Except for a small part of the case, I had managed to convince the court on all other aspects of my client's claim, and the judge had ruled exactly as I wanted. It made me feel grateful for the law, and happy for my client.*

What do you do for fun? *If I am not on the golf course pretending to play golf, I am on my boat with my wife and friends, exploring the shoreline from a different point of view.*

With his entire career invested as both a sole-practitioner and as a small-firm attorney, Sepassi feels that gaining that "prominent spot" can best be attained by helping the SFVBA "create more tools for the members, particularly solo and small-firm attorneys, to make the practice of law more effortless."

One idea, he says, "might be to create a repository of legal briefs, so members can tap into a large pool of knowledge when faced with a legal question." Another is "developing a mentoring system for new attorneys."

Working with other members of the Board, he says, "I would like to see SFVBA gain a more prominent spot among the other regional Bar associations, and the southern California legal community in general," says Sepassi.

An active member of the SFVBA for the past 20 years, Sepassi, who practices in Encino, is also a past president of the Iranian-American Lawyers Association. His community service dossier includes participation in numerous Law Day events, serving as a Judge Pro Tem and as a pro bono mediator for the 2nd District Court of Appeals, the U.S. Bankruptcy Court and the Ventura County Superior Court.

"I think what differentiates the SFVBA from other Bars for me is its small town feel," says Sepassi. "I feel like one can get to know a lot of people in a very short time, by participating in a few of the events. The staff are also a phone call or email away, and are always ready to help."



TONI M. VARGAS

LAW SCHOOL: Thomas Jefferson School of Law

AREA(S) OF PRACTICE: Healthcare law

YEARS IN PRACTICE: 20

SFVBA MEMBER SINCE: 2003

Why did you choose a career in law? *Not in my wildest dreams did I ever think about becoming a lawyer. I had been involved in the healthcare industry my entire life. But there came a time when the healthcare environment seemed to change and that change prompted me to seek a career in law. And, of course, I only practice healthcare law.*

How did you react when you passed the bar? *I thought it could possibly be a mistake.*

Favorite Book? *The Immortal Life of Henrietta Lacks. An astounding story of a young poor woman who died of cancer and whose cells were used to develop some of the most important discoveries in medicine, including the polio vaccine and cloning. She was never told and she never received any money yet billions of her cells were sold and are still being sold.*

What field would you be in if you weren't practicing law? *Easy. Medicine*

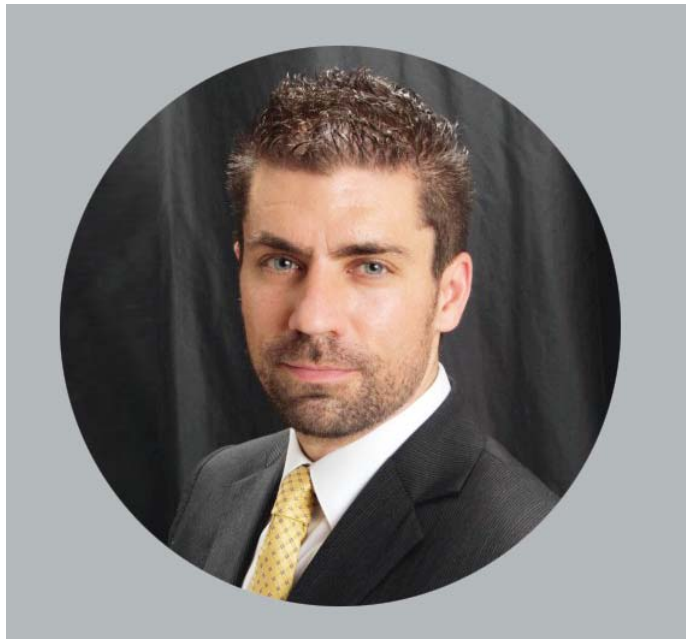
What was your most memorable career moment so far? *I represented a client who was denied access to a medication she relied on to manage a severe medical problem. The denial was based on the medication being off label. This means this medication was for treatment of specific medical conditions and my client did not have one of the listed conditions. I appealed the denial and with the help of other legal aid organizations was successful in getting it reversed. At that time I became the first case in the United States to get a reversal of an off label Medicare denial.*

Incumbent Trustee Vargas has spent the last 17 years working for public interest law firms, gaining experience with unlawful

detainers, temporary restraining orders, domestic violence, elder abuse, conservatorships and simple wills. Now with Neighborhood Legal Services of Los Angeles County in Pacoima, her practice is concentrated on access to healthcare for low income families and children, as well as the elderly and disabled.

"I spent a year with the Department of Justice doing criminal appeals and loved it," she says. "But then I looked at how my entire life had been dedicated to healthcare and that has always been a driving force in my life so as they say 'the rest is history.'"

Vargas—an "enthusiastic team player"—sees her position on the SFVBA Board as an opportunity "to raise, interest, awareness and participation" in addressing the critical healthcare needs of "the most fragile members of our community" and work with the Board to "enhance programs and important initiatives that affect our communities and support the Bar's mission, programs and activities."



CHRISTOPHER P. WARNE

LAW SCHOOL: Pepperdine University School of Law

AREA(S) OF PRACTICE: Business, real estate, landlord/tenant litigation

YEARS IN PRACTICE: 10

SFVBA MEMBER SINCE: 2006

What do you do for fun? *Ski in the winter, golf all year round.*

Why practice in the Valley? *The Valley is like a huge small town. Everybody knows everybody. That can be a really good thing or a really bad thing depending on how you act.*

What's your favorite vacation spot? *Road trips. Jump in the car and see what you stumble across along the way.*

What was your childhood career goal? *Law enforcement.*

What made you decide on your specific area of practice?

I get to learn and grow with my clients. I get to help them figure out problems and feel good about the ultimate decisions they make. It's amazing the bond you build with clients after being in the trenches of litigation.

Warne, who currently sits of the SFVBA Board of Trustees and practices in Woodland Hills, serves as Chair of the Litigation Section, and is a member of the Membership & Marketing Committee and Valley Bar Network.

What makes the Bar unique, he says, is "the people. I have made countless professional and personal relationships from the Bar. I've never heard of another Bar inviting members over to someone's house for dinner, or being so involved in the community."

His personal involvement in the San Fernando Valley community includes providing pro bono outside corporate counsel to a large non-profit which provides support services and housing assistance to domestic violence victims, senior citizens and the homeless.

Warne feels he can provide the Board with insights that can help boost attendance at meetings and events, generate revenue and memberships, and make the Bar more attractive to younger lawyers. "We need to make a marketing push at other organizations," says Warne, a member of the Santa Monica Bar Association and past member of the Ventura County Bar and the Trial Lawyers Association. "We need to be viewed not as the competition, but as a partner."

"I feel I can share what is working at other organizations and how we can keep the Bar competitive," he says. "The Bar needs to evolve for the future. We need to find value for new and existing members, and grow the culture of camaraderie that the SFVBA is known for. We need to make the Bar an invaluable resource for attorneys both in the Valley and all of Los Angeles."



VIVIAN F. YOCHELSON

LAW SCHOOL: Southwestern Law School

AREA(S) OF PRACTICE: Personal injury

YEARS IN PRACTICE: 20

SFVBA MEMBER SINCE: 2016

Why did you choose a career in the law? *My nature is to empathize with people and want to help them. Having a career as a lawyer allows me to advocate for my clients and help them through a legal process most don't understand.*

What do you do for fun? *I love to garden. I have a vegetable garden in my backyard. I think of it as one big experiment as I learn the do's-and-don'ts of gardening from one season to the next. Playing in the dirt and being amongst nature feels very satisfying.*

What's your favorite vacation spot? *My favorite vacation spot is in Cape Cod. My husband has a childhood summer home on a pond and it is our own family haven.*

What do you do in your free time? *I participate in a bilingual Toastmasters Club (Hispanic Business Network) because I am fluent in both English and Spanish. We meet once every three weeks to improve our public speaking and leadership skills.*

How did you react when you found out you'd passed the bar exam? *I was thrilled I passed the first time twenty years ago because I was nine months pregnant and did not want to study for it again with two small children under my wings.*

Active in the SFVBA's Valley Bar Network, Yochelson has practiced law for the past 20 years, specializing in plaintiff personal injury litigation.

"I was born and raised in the San Fernando Valley and have lived here for the past 16 years as an adult," says Yochelson, who currently practices in Woodland Hills and serves as President of the Encino Lawyers Association. "I am a big proponent of embracing the community you live in and becoming involved, especially since the Los Angeles area is so geographically vast. The SFVBA feels like home and has the capacity to reach attorneys throughout the Valley in any area of practice, not just my particular area of law which is personal injury."

If elected to the SFVBA Board, Yochelson's would like to work toward developing a "stronger presence" for the Bar in the Valley, cultivate new ideas to reach out to millennial lawyers, and enhance the Bar's networking and social activities.

"My primary goal would be to learn more about what the SFVBA has to offer its members and understand how the organization has operated over the past few years," she says. "Once I become familiar with that, I would then use my leadership skills to expand the services offered and bring new ideas to the Board so that we can reach more attorneys in the Valley and perhaps even become more involved in the SFV community as a whole, not just with attorneys."

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REPORT OF THE NOMINATING COMMITTEE

Date: May 25, 2017

Present: Carol Newman, Kira Masteller, Ronald Hughes, Heather Glick-Atalla, Adam Grant, Caryn Sanders, Alan Kassan (via phone), Liz Post

Absent: Michelle Diaz

Newman called the meeting to order at 5:00 p.m. Masteller was elected to serve as Secretary of the Committee. The Committee nominated the following as officers:

David G. Jones	Treasurer
Barry P. Goldberg	Secretary
Yi Sun Kim	President Elect
Alan E. Kassan	President (automatic)

The following incumbent Trustees who desired to be nominated to run again were approved by unanimous vote:

Matthew A. Breddan
Alexander J. Harwin
Toni Vargas
Christopher P. Warne

Following the meeting, incumbent Trustee Peta-Gay Gordon confirmed with Masteller that she wished to be renominated as Trustee. The Committee approved her nomination by unanimous vote.

The following seven members who submitted applications for nomination to run at Trustee were approved by unanimous vote:

Reagan E. Boyce	Amanda Marie Moghaddam
D. Shawn Burkley	George N. Seide
Michael W. Davis	Steven M. Sepassi
	Vivian F. Yochelson

The meeting adjourned at 5:30 p.m.

KIRA S. MASTELLER
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By Tal Grinblat

Confusing Trademarks: The Next Course of Action

ONE OF THE MOST COMMON objections raised by the U.S. Patent & Trademark Office (PTO) in reviewing applications is the likelihood of confusion with third party registrations and earlier filed applications. An applicant that receives an objection claiming that the mark is confusingly similar to another party's trademark has several options.

Standard for Likelihood of Confusion

15 U.S.C. §1052 provides in pertinent part that:

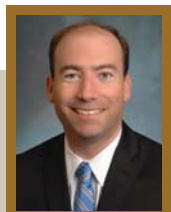
No trademark by which the goods of the applicant may be

distinguished from the goods of others shall be refused registration on the principal register on account of its nature unless it . . . (d) Consists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive. . .

In evaluating a trademark application for "registrability," the PTO

reviews existing registrations and previously filed pending applications to identify possible conflicts. The applicable question in conducting the review is not whether people will confuse the marks, but rather whether the marks will confuse people into believing that the goods or services they identify emanate from the same source.¹

The options available to try to overcome refusals based on the likelihood of confusion are varied. These include presenting arguments why the marks are different or the goods or services are different; seeking consent for the use and registration of



Tal Grinblat is a California State Bar-certified specialist in franchise and distribution law at Lewitt, Hackman, Shapiro, Marshall & Harlan in Encino. He can be reached at tgrinblat@lewitthackman.com.

your mark from the owner of the cited registration/earlier filed application; and initiating a concurrent use proceeding (if the facts support that option).

Addressing the Examiner's Objection by Argument

One of the tools available for practitioners to try to overcome an examiner's refusal that another mark is confusingly similar to your own is by argument. The Trademark Office will take the following list of non-exhaustive determinants, the so-called "Dupont Factors," into account:²

- *The similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression.* The more marks are different visually, aurally and in other fashions, the less likely consumer confusion would arise. The basic principle in determining confusion between marks is that marks must be compared in their entireties (not dissected into parts) and must be considered in connection with the particular goods or services for which they are used and not in the abstract.
- *The relatedness of the goods or services as described in the application and cited registration(s)/earlier filed application(s).* The more the parties' goods or services are different in terms of function, use or other aspect, the likelihood of consumer confusion is reduced.
- *The similarity or dissimilarity of the parties' trade channels,* i.e., how the goods or services are sold, whether one parties' goods are specialized, etc.
- *The sophistication of the consumer.* The more sophisticated the consumer of a particular product or service, the

less likely consumer confusion will arise.

- *The types of goods sold,* i.e., whether impulse or careful sophisticated purchasing. The more expensive an item, ordinarily, the more a consumer is likely to investigate the product, therefore lessening the risk of consumer confusion.
- *The number and nature of similar marks in use on similar goods,* i.e., if a number of similar marks already exist for similar goods or services, the more likely consumers would assess other aspects of the mark to differentiate source; while any one factor may be sufficient to overcome the refusal, ordinarily, the more factors an applicant can show, the better the chance of overcoming the refusal.³

Obtaining the Cited Mark Owner's Consent

A second option to try to overcome an examiner's refusal to register a mark based on consumer confusion is seeking consent of the owner of the cited registration or earlier filed application for the use and registration of your mark.

A consent agreement may take a number of different forms and arise under a variety of circumstances. These can include entering into a formal agreement with the cited registrant/applicant, whereby the parties agree on certain usage restrictions (i.e., font, stylization, logo usage, use with other words), agreeing on limits on how the products and services are sold, specifying channels of trade by which each party's products or services will be sold or advertised, agreements to cooperate in the event of any confusion, and other manners.⁴

While there is no per se rule that a consent, whatever its terms, will always tip the balance to finding

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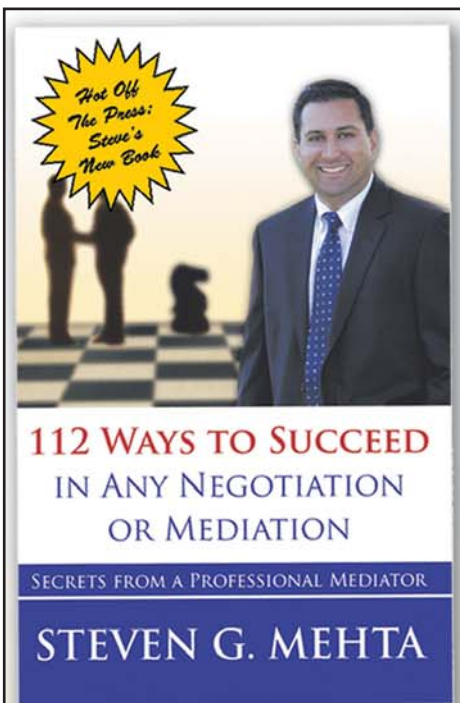
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no likelihood of confusion, consent agreements are given great weight because the PTO takes the position that the parties closest to the matter can best assess the marketplace. Further, the Office's position is that its own personnel should not substitute their own judgment concerning the likelihood of confusion for the judgment of the real parties in interest without good reason, that is, unless the other relevant factors clearly dictate a finding of likelihood of confusion.^{5 6}

While consent agreements receive great deference, "naked consent" agreements—agreements that contain little more than a prior registrant's consent to registration of an applied-for mark and possibly a mere statement that source confusion is believed to be unlikely—are typically considered to be less persuasive than agreements that detail the particular reasons why the relevant parties believe no likelihood of confusion exists and specify the arrangements undertaken by the parties to avoid confusing the public.^{7 8}

Initiating Concurrent Use Proceedings

Another option sometimes available to a party receiving a refusal based on likelihood of confusion arises when the party applying to register their mark has used their mark for a period of time which precedes the registration date of the cited registrant. The process, called concurrent use proceedings, allows an applicant to apply to register their mark usually based on geographic limitation.

The statutory framework contains a proviso under which an eligible applicant may request issuance of a registration based on rights acquired by concurrent use of its mark, either with the owner of a registration or application for a conflicting mark or with a common-law user of a conflicting mark.⁹

In a concurrent use application, the applicant normally requests a geographically-restricted registration and identifies in its application one or more parties who concededly have rights in the mark in other geographical areas.¹⁰ These other parties may own applications or registrations, or they may have common law rights in a mark, but no application or registration.

There are two bases upon which a concurrent use registration may be issued. First, a determination by the Trademark Trial and Appeal Board that the applicant is entitled to a concurrent registration. Or second, a final determination by a court on the concurrent rights of the relevant parties to use the same or similar marks in commerce.¹¹


An applicant is eligible to request a registration subject to concurrent use if it meets one or more of the following criteria: the owner of the registration consents to the grant of a concurrent use registration to the applicant; the concurrent use request is sought pursuant to a court decree determining the rights of the concurrent user; or the applicant's date of use of its mark is before the filing date of the other pending application or existing registration.¹² The applicant has the burden of proving that it is entitled to a concurrent use registration.¹³

Therefore, in circumstances when a client has used their mark before the filing date of another trademark, the concurrent use option is a viable and potentially potent option to obtain a registration even if the identical mark for the identical goods or services has been used in another part of the country. The end result is that both parties obtain rights to their respective marks in their respective geographies.

Final Options

Several options exist when receiving

a refusal that a mark is confusingly similar to another previously filed application or existing registration. These can vary from explaining to the examiner why the marks, goods or services associated with each party's marks are different, why the channels of trade vary; why seeking and obtaining consent from the owner of the mark would block your trademark; or how initiating concurrent use proceedings if the client's own use predates the filing date of the other party's application or registration.

In short, it's critical to know the full landscape of available options that can be instrumental in crafting a suitable strategy to counter an examiner's refusal and successfully reach the goal of obtaining a registration for the client's mark. 

¹ *In re Shell Oil Co.*, 992 F.2d 1204, 1207, 26 USPQ2d 1687, 1689 (Fed. Cir. 1993) ("The degree of 'relatedness' must be viewed in the context of all the factors, in determining whether the services are sufficiently related that a reasonable consumer would be confused as to source or sponsorship.")

² *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). The U.S. Court of Customs and Patent Appeals discussed the factors relevant to a determination of likelihood of confusion.

³ *M2 Software, Inc. v. M2 Commc'ns, Inc.*, 450 F.3d 1378, 1383, 78 USPQ2d 1944, 1947-48 (Fed. Cir. 2006) (noting that relatedness between software-related goods may not be presumed merely because the goods are delivered in the same media format and that, instead, a subject-matter-based mode of analysis is appropriate).

⁴ *In re N.A.D. Inc.*, 754 F.2d 996, 224 USPQ 969, 971 (Fed. Cir. 1985).

⁵ *In re Four Seasons Hotels Ltd.*, 987 F.2d 1565, 26 USPQ2d 1071 (Fed. Cir. 1993).

⁶ Trademark Office Manual of Examining Procedures, §1207.01(d)(viii) (2017).

⁷ *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1362, 177 USPQ 563, 568 (C.C.P.A. 1973) (noting that "[i]n considering agreements, a naked 'consent' may carry little weight," but "[t]he weight to be given more detailed agreements . . . should be substantial").

⁸ *In re Donnay Int'l, S.A.*, 31 USPQ2d 1953, 1956 (TTAB 1994) ([T]he more information the parties place in a consent agreement explaining why the parties believe confusion is unlikely, the more the PTO assumes the consent is based on a reasoned assessment of the marketplace, and consequently the more weight the consent will be accorded.)

⁹ §2(d) of the Trademark Act, 15 U.S.C. §1052(d).

¹⁰ 15 U.S.C. §1051(a)(3)(D).

¹¹ 15 U.S.C. §1052(d); 37 C.F.R. §2.99(h).

¹² 15 U.S.C. §1052(d); 37 C.F.R. §2.99(e).

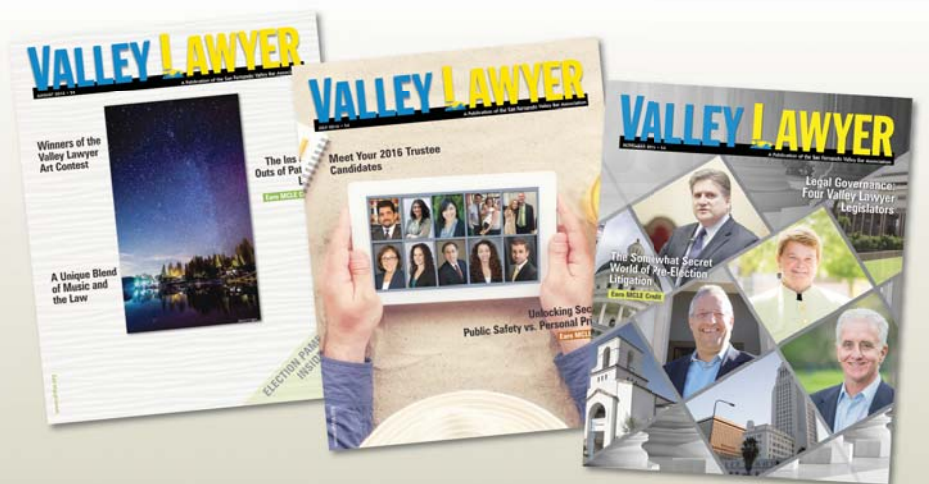
¹³ *America's Best Franchising, Inc. v. Abbott*, 106 USPQ2d 1540, 1548 (TTAB 2013) (quoting *Over the Rainbow, Ltd. v. Over the Rainbow, Inc.*, 227 USPQ 879, 883 (TTAB 1985)).

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By Robin E. Paley

Evictions: Dwell, Well, Well

A CITY WITH A POPULATION of more than 4 million people, Los Angeles has the fourth highest percentage of renters in the nation. This is probably due to the fact that the “suggested salary required to buy a home in LA is nearly twice the median household income.”

The average Los Angeles homeowner may be looking at the shed on their property or the bonus room in their house and, seeing dollar signs, thinking a quick trip to IKEA would make that space rentable.

But before picking up a futon and ordering a heaping plate of Swedish meatballs, this landlord-to-be should know that quaint potential dwelling could well be illegal to rent out.

With the average monthly rent in L.A. over \$2,000, it makes sense to get in on the action, but before doing so, it is imperative to be aware of the potential issues involved.

What Is a Legal, Rentable Dwelling?

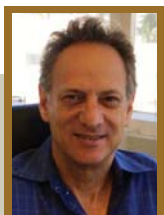
In the most basic sense, an unlawful apartment is simply one created without the city’s blessing. This could entail walling off a room, converting a garage, or buying an apartment building where only some of the units are permitted.¹

Taking the proper steps on the front-end can make all the difference, e.g., getting your building project properly permitted prior to actually making modifications and/or registering the rental unit before collecting any rent. This often extensive and

expensive investment of both time and money upfront can save many landowners headaches on the backend.

However, getting a unit permitted, and going through the rental registration process, is not the easiest or most fluid of endeavors. There are numerous zoning, parking, setback, height, and lot size ordinances and requirements which must be adhered to.² This is why many property owners just take the unadvisable risk of renting prior to the permit and registration process is completed.

In the case of getting an illegal unit permitted, the battle is even more uphill. Generally, a landlord or property owner finds out that the unit in question is illegal because code enforcement has visited the property and issued a



Encino-based **Robin E. Paley** is a sole practitioner specializing in the areas of landlord-tenant, business litigation, corporation formation, probate, estate planning and personal injury law. He can be reached at paleylawoffices@gmail.com



citation or, as will be discussed later, the landlord has tried to evict the tenants and received a letter from the Los Angeles Housing and Community Investment Department.

If issued a citation by the City of Los Angeles Department of Building and Safety, the property owner will be directed to return the unpermitted garage/room/addition to its original state. This is often a massive undertaking of cost and time so it follows logically for most property owners to put the effort into obtaining the right permit.

Unfortunately, once an illegal unit is cited, code enforcement personnel may indicate that the property owner won't be able to obtain the needed permit. This is not an overstatement as, according to the *Los Angeles Sentinel*, "[O]ut of 2,560 illegal units [cited] between 2010 and 2015[...]201 were legalized, 1,765 were ultimately removed."³ This means almost 70 percent of illegal units that were issued citations were unable to become permitted.

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Property owners should absolutely take great care with asking permit questions upfront for any potential additions or garage conversions, especially when planning to use that space as a rental. Additionally, the penalties involved are greatly exacerbated if the property falls under the city's Rent Stabilization Ordinance.

Penalties and Risks of Renting an Illegal Dwelling

In short, the risks are high and the penalties are severe, especially when the property is in a rent-controlled area. To illustrate the issue, consider the case of a landlord who has a converted garage that was neither permitted as a conversion nor for rental purposes, and she rents it out to a tenant.

One day, landlord decides she wants the converted garage back and tells tenant to vacate the premises. Tenant calls the Los Angeles Housing and Community Investment Department (HCIDLA), which issues a letter to landlord that she must give tenant not only proper notice, but relocation costs and 30-60 days to move out.

In another example situation, perhaps landlord didn't want tenant to leave but was cited by the city and now has to evict tenant in order to comply with the government order. Even in that case, landlord will still owe relocation costs. This is because many homes in the City of Los Angeles, which includes a large portion of the San Fernando Valley, fall under the Rent Stabilization Ordinance (RSO).

The purpose of the RSO is to manage rent increases, rental registrations, legal reasons for evictions, and circumstances which require tenant relocation assistance.⁴ According to HCIDLA, generally it applies to properties built on or before October 1, 1978.



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Additionally, there are several legal reasons for eviction, but if the eviction is not due to the fault of the tenant, the landlord is subject to various requirements to enact the eviction. One of the reasons an eviction is not the fault of the tenant is if the tenant has been ordered to vacate the unit or building by a governmental agency because of a legal violation.⁵ Having a unit unpermitted or unregistered (or both) would be a legal violation.

As to the specifics around tenant relocation assistance, through June 2017, the lowest possible amount a landlord would be required to provide to a tenant is \$7,600, with the highest possible amount being \$19,700.⁶ This cost is on top of a several hundred-dollar service fee that must be paid to HCLDLA.

In addition, in the case of an eviction due to a legal violation (e.g.,

the illegal unit), the landlord is required to give 30-60 day notice.

Possible Bright Future for Illegal Units

As rental prices skyrocket and the availability of affordable housing plummets, the City of Los Angeles

“

There are several legal reasons for eviction, but if the eviction is not due to the fault of the tenant, the landlord is subject to various requirements to enact the eviction.”

has been looking for options to ease the impact on residents. A potential solution is legalizing currently illegal units.

According to the *Los Angeles Times*, “In recent years, an unusual alliance of landlords and tenant advocates has been pushing for a new ‘amnesty’ program that would ease the way to legalize such apartments if they met safety standards.”⁷

In fact, on May 10, 2017, the Los Angeles City Council approved the Unapproved Dwelling Unit (UDU) ordinance, originally proposed in December 2015.⁸

However, the new ordinance is not broad for the purposes of property owners. The write-up by Councilmember Jose Huizar summarized who is eligible under the UDU ordinance: “To be an eligible project, the residential or mixed-use building with the unapproved dwelling unit must be located in multiple family zones (R2 or above). The owner must be able to demonstrate that the unit existed as

A colorful poster for the Valley Lawyer's Art Contest. The background features a stylized beach scene with blue waves, a red sailboat with a yellow sail, a yellow sun in the top left, and a pink beach umbrella on the right. A rainbow is visible at the bottom right. The text is arranged as follows:

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of the December 10, 2015, deadline and be willing to provide at least one restricted affordable unit for up to 55 years.”⁹

Also, the building that houses the unit “must be free from other code violations and comply with a range of other performance standards.”¹⁰


One of the UDU’s biggest downfalls is that it does not apply to single-family zoned properties. This is to dissuade illegal construction, but the public policy justification doesn’t really lessen the disappointment for the R1 property owner with a great bonus room.

Additionally, it’s not the most compelling ordinance for a landlord or property owner as he or she would have to provide at least one affordable unit for over five decades, which is a massive commitment.

Key Takeaways for Property Owners/Landlords and Tenants

For property additions or modification projects, get them permitted first. To lawfully rent out a unit, register it as soon as possible. And if none of that has been done and the landlord is already actively collecting rent for an unlawful unit in a property under the RSO, he or she should seek legal help

and prepare to pay the legally mandated relocation assistance costs.

When all is said and done, though, the key takeaway for tenants is even simpler: they must know their rights. Ultimately, these takeaways boil down to an even easier concept to remember: landlord beware, tenant be aware. 

¹ Emily Alpert Reyes, “L.A. takes step toward legalizing bootlegged apartments,” *Los Angeles Times*, April 6, 2016, accessed May 29, 2017, <http://www.latimes.com/local/lanow/la-me-ln-bootleg-legalization-20160406-story.html>.

² Department of Public Works—Building and Safety. “Tell me about Building Permits.” Last modified unknown. <https://dpw.lacounty.gov/bsd/content/whydoineedapermit.aspx>.

³ City News Service, “Council Agrees to amnesty for Illegal Housing Units,” *Los Angeles Sentinel*, April 14, 2016, accessed May 29, 2017, <https://lasentinel.net/council-agrees-to-amnesty-for-illegal-housing-units.html>.

⁴ Los Angeles Housing and Community Investment Department. “What is Covered Under the RSO.” Last modified May 2017. <http://hcidla.lacity.org/What-is-Covered-under-the-RSO>.

⁵ *Ibid.*

⁶ Los Angeles Housing and Community Investment Department. “Relocation Assistance Information.” Last modified May 2017. <http://hcidla.lacity.org/Relocation-Assistance>.

⁷ Emily Alpert Reyes, “L.A. takes step toward legalizing bootlegged apartments,” *Los Angeles Times*, April 6, 2016, accessed May 29, 2017, <http://www.latimes.com/local/lanow/la-me-ln-bootleg-legalization-20160406-story.html>.

⁸ Jose Huizar. “Council Adopts Unapproved Dwelling Unit Affordable Housing Program.” Last modified May 2017, http://www.josehuizar.com/council_adopts_unapproved_dwelling_unit_affordable_housing_program.

⁹ *Ibid.*

¹⁰ *Ibid.*

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A Year to Be Proud Of!

LET'S KEEP THE MOMENTUM GOING! I'M PLEASED to report that with your help, the Valley Community Legal Foundation, the charitable arm of the San Fernando Valley Bar Association, is once again prospering.

Giving back to the community feels, frankly, pretty good, and this fiscal year you have so much to be proud of, such as our successful 2016-2017 fundraising efforts; the well-received 2017 Virtual Gala honoring the careers of Judge Susan Speer and retired LAPD Detective Bill Speer; the creation of the Barry T. Harlan Memorial Fund; our 2017 grants and scholarships recipients; and the effective community outreach programs for our Valley law magnets and Law Post students, which included our support for the recent production of *Defamation: The Play*.

LAURENCE N. KALDOR
President



phenix7@msn.com

As many of you know, we have taken painstaking efforts to streamline our fundraising efforts to ensure that a much greater percentage of each dollar donated goes directly to support worthy community causes. Furthermore, we've truncated our annual "ask" so that there is only one big push each year.

Additionally, I'm pleased to report that the Foundation's relationship with the San Fernando Valley Bar Association is stronger than it has been in years, with the two organizations looking forward to working together more effectively in the coming years.

As the VCLF continues to rebuild its own Board, I am happy to report that our governing body is running leaner and more efficiently than it has in years and that everyone



is engaged, enthusiastic and committed to fulfilling our mission.

As our momentum builds, we're welcoming new members who share our love for the San Fernando Valley and our passion for community service. We currently have four open seats that we are hoping to fill with members of the SFVBA, two open seats for non-attorney-members, and one open seat for an interested bench officer, either currently working or retired.

Non-attorney business professionals are encouraged to apply for VCLF board positions, as our board is always looking to enlist community-driven people with diverse and specialized skills, including accounting, marketing, photography, computer graphics, and web-design.


So, what is the commitment? All members are expected to attend and participate in board meetings—held monthly with the exception of July and December—and are expected to participate in VCLF charitable events in some capacity. All members are also expected to make a minimum nominal contribution or provide a “give-get” in their name.

It is also my sincere hope that incoming members will actively serve on the 2017-2018 Scholarship Committee that will evaluate and assess the scores of qualified Valley students.

To become a candidate for the VCLF Board of Directors for the upcoming year or to nominate a colleague, please email me directly at info@thevclf.org.

I would be remiss if I didn't take a moment to remind all SFVBA members to check the box and give to the VCLF and/or the newly created Barry T. Harlan Memorial Fund when you renew your SFVBA membership this summer. If every member gave the minimum suggested tax-deductible donation of \$20, the Foundation would not have the ongoing and pressing need for substantial fundraising throughout the year.

Lastly, as VCLF President, I am humbled by the opportunity you've given me to serve our community and I look forward to working with all of you for the remainder of this fiscal year, as well as an exciting and promising 2017-2018.

For all of you who have participated and contributed to making this the best year ever for the Valley Community Legal Foundation, a sincere and heartfelt thank you. 

About the VCLF of the SFVBA

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



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A Distracted Driver and a Reconnect

IT'S NO SECRET THAT MANY DRIVERS CAN LET their attention waiver while at the wheel of their cars— younger drivers can be obsessed with their cellphones, business people are frequently preoccupied with pressures at the office, and parents can certainly be distracted by their sometimes over-active children. Although all may believe that they're always in control, they are sometimes given a heavy dose of reality when they cause an accident.

Mary Zanger found herself the victim of such a distracted driver in the fall of 2014. Stopped at a red light on Topanga Canyon Boulevard in Chatsworth, she was rear-ended by a car traveling 50 miles-per-hour, driven by a parent dealing with a misbehaving youngster in the back seat.

The results were traumatic enough. Zanger, age 82 at the time, was seriously injured with whiplash, a mild concussion, and a subdural hematoma. Hospitalized for seven days, she recuperated only after extensive physical therapy and rest.


A legal secretary for a family law firm for many years, Zanger called the Attorney Referral Service in search of "a good personal injury attorney." She was aware of the ARS and its reputation when, a few years earlier, she had called the ARS regarding another legal issue and was referred to

Encino-based attorney Robin Paley, who successfully argued that case for her.

Once again, she was paired with Paley, who specializes in personal injury, real property, probate, and business litigation, and has also successfully argued a number of legal malpractice and elder abuse cases. An active participant in the ARS Senior Citizen Legal Program, Paley has over the years helped thousands of Valley senior citizens acquire affordable legal representation.

Expertly recognizing the substance of Zanger's case, Paley went to work and asked for not a penny less than what was laid out in the insurance policy. "[The accident] affected her more than people that are younger because of her age, and so I was happy that the insurance adjuster was able to see that this case was worth the policy limit," says Paley.

All in all, both Zanger and Paley were satisfied with the re-connection. Paley's services, says Zanger, "are fantastic...he is an incredible attorney."

In turn, Paley says that it was, "very interesting that we had met again after so many years. The first case also was successful...She's a very nice lady you know. We aim to satisfy our clients." 

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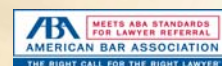
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