VALLEY LAWYER

MAY 2011 • $4

A Publication of the San Fernando Valley Bar Association

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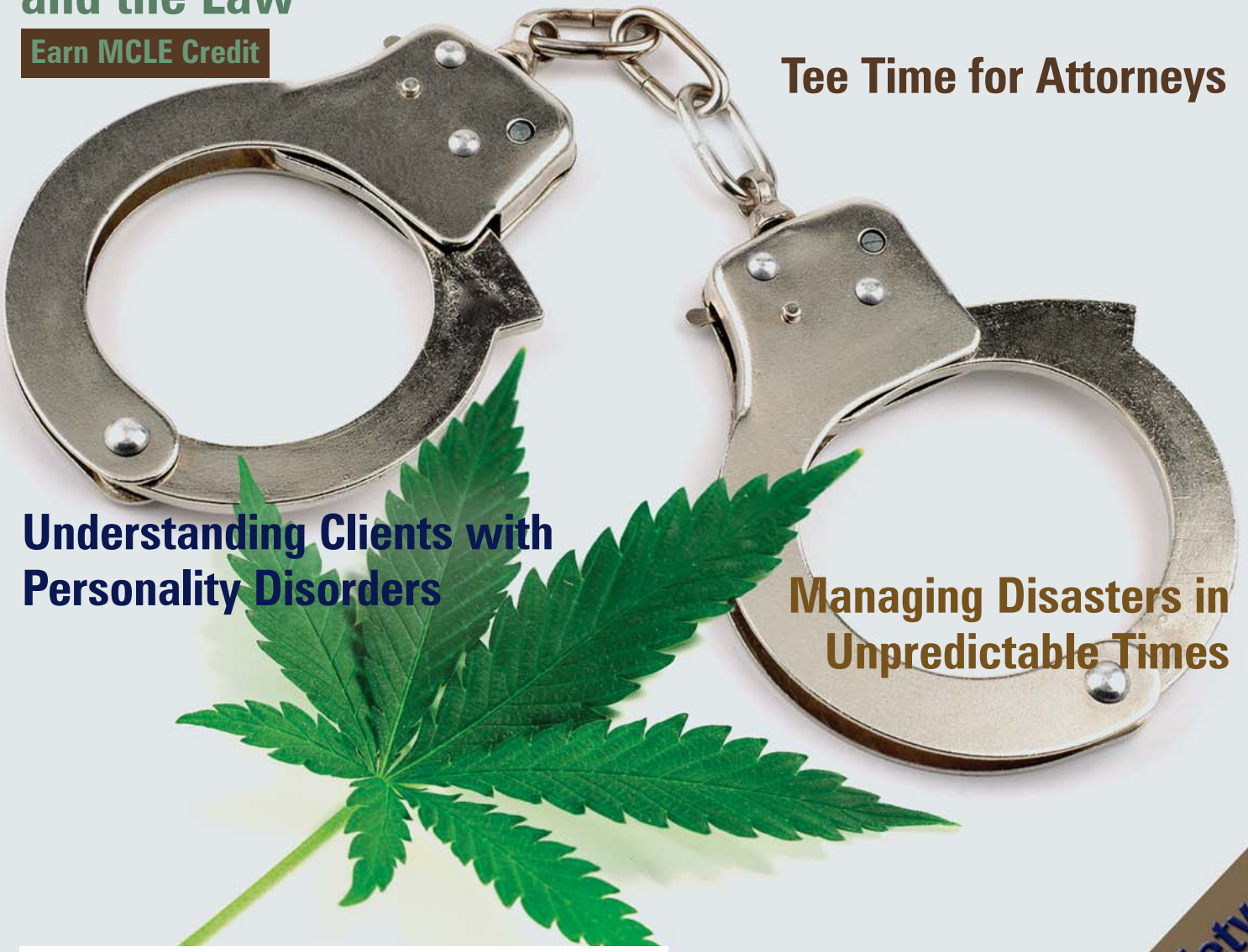

Understanding Clients with Personality Disorders

Managing Disasters in Unpredictable Times

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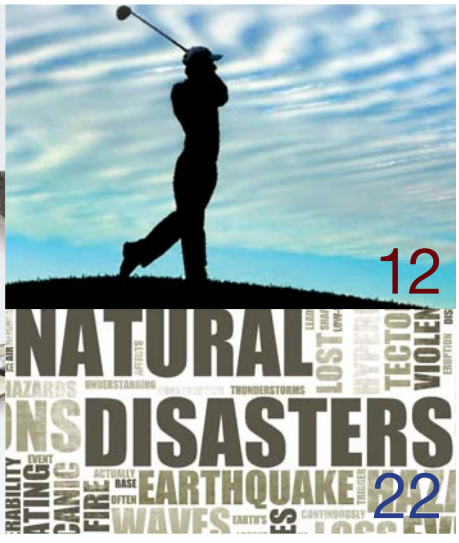

VALLEY LAWYER

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Participation in "What If?"

SEYMOUR I. AMSTER
SFVBA President

AS PART OF THE SFVBA'S Horace Mann Project, the "What If ?" program was presented for the first time to ninth graders on March 8 and 9 at Northridge Academy High School (NAHS) while the rest of the students in the school were being administered a state mandated exam. The presentation was spearheaded by attorneys from Wasserman, Comden, Casselman & Esensten, the Tarzana firm that has adopted NAHS.

The "What If ?" program is a similar, but a better version of the "When You Turn 18" booklet published by the State Bar. Why am I so certain it is a better version than the State Bar's version? Because we have something the State Bar does not have, an amazing group of dedicated young adults who were the authors of our program. I am of course referring to the members of our General Law Post.

Several months ago the General Law Post was given the task of designing this program. They were presented with the State Bar brochure. They had the assistance of Los Angeles Valley College administrator Florentino Manzano. They had the guidance of our wonderful Law Post Advisor, Caryn Sanders. They were given a deadline as to when the project was due and a date when they were to present it at a training program.

As true lawyers to be, they rolled up their sleeves and went to work. They had several meetings in addition to their regular meetings. They designed the program in a manner that would be receptive to ninth graders. They focused on issues involving drugs, alcohol and interaction between the sexes. The program was created in a manner that was meant to be informative and interactive. It was purposely designed not to scare the ninth graders. This was the most impressive aspect of the program they designed.

The Law Post students knew from their own experience that students "tune out" when the program is designed to scare the audience. Thus, they made sure the program was designed to inform, not to scare, but at the same time providing all of the necessary information for the ninth graders to consider "What if I was placed in that situation?"

On March 1, the General Law Post students presented the program at the training session. They did a remarkable job. They answered questions properly and articulately. They added insightful comments. They demonstrated the characteristics of a true lawyer. They thoroughly educated the presenters on the program.

The program was presented to the ninth graders at NAHS over two days. Randi Geffner, Michael Klein, Jordan Esensten and David Polinsky participated on behalf of Wasserman, Comden, Casselman & Esensten. They were joined by sole practitioner Emily Robinson. Each of the presenters was assisted by either CSUN students, General Law Post students or NAHS students.

The presentation started with the presenters introducing themselves. Then, they utilized the material. They were free to be creative in the manner they presented the material. Some of the groups chose to present the material through the use of skits. Others chose interactive questions and one group utilized a quiz show technique.

On the first day of the presentation, Judge Beverly Reid O'Connell visited each room participating in the "What If ?" program. She discussed important issues with the students and answered questions. On the second day of the presentation, Judge Charlaine Olmedo participated in the same manner. The participation of the judicial officers enhanced the program tremendously. The students were intrigued and inspired as a result of the opportunity to interact with a judge in a classroom setting.

The NAHS students could not stop talking about the program. They were amazed at what they had learned. After the program was concluded, one could hear the students talking about what they had learned with their friends during lunch, a true sign that they had enjoyed the presentation.

None of this would have been possible without the dedication of the General Law Post, the enthusiastic participation of the attorneys, the hospitality of the school, the warmth of the judicial officers and the sense of community responsibility of all involved.

When the day comes when one of the ninth graders is faced with a situation similar to a scenario presented to him or her during the "What If ?" program, thinks about what he or she learned on this day and makes the right decision, then all of the hard work and dedication given by each of the participants will not only be worth it, but will be beyond measuring. We might never know when this days comes but we can rest assured it will happen and keep continuing to happen the more often we come together and present the "What If ?" program to our youth of today and our adults of tomorrow.

Seymour I. Amster *can be contacted at Attyamster@aol.com.*

Wells Fargo Insurance Services

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Lawyers Professional Liability insurance program available to SFVBA members

Wells Fargo Insurance Services in partnership with the San Fernando Valley Bar Association offers an exclusive Lawyers Professional Liability insurance program for law firms of 1-10 attorneys.

Product overview

Wells Fargo Insurance Services' Lawyers Professional Liability program protects you, your lawyers, your employees, and your firm against damages and claims expenses which the insured shall become legally obligated to pay because of claims arising out of any act, error or omission of the insured in rendering or failing to render professional service for customers.*

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Together we'll go far

From the Executive Director

"Every new beginning comes from some other beginning's end."

ELIZABETH POST
Executive Director

SPRING IS THE SEASON OF NEW BEGINNINGS, BUT the Roman philosopher Seneca reminds us that every beginning has an end. The San Fernando Valley Bar Association pays respect to three long-time members who passed away in March: Ken Broker, Judge Frank R. Brown and David Kaplan.

Family Law Section member **Ken Broker** passed away on March 30 at the age of 60. Upon learning of his passing, colleague Larry Epstein mused on the family law listserv, "Yesterday we lost a great human being and a great attorney. He was the type of person that you would want as a friend. He was kind, compassionate and considerate. He gave us attorneys a good name, in that he was honest, reasonable and cared about his clients."

Director of Education & Events Linda Temkin remembers, "Ken attended almost every family law section meeting over the last ten years. He was always quiet and courteous as he picked his card for his usual cobb salad. His presence was such a constant and we are truly saddened by his absence."

Honorary member, **Administrative Law Judge Frank R. Brown,** died on March 7 at the age of 89. He opened his private practice in Van Nuys in 1958. At the age of 83, he became an Administrative Law Judge for the U.S. Department of Health and Human Services, where he remained until his passing.

Former associate Denis Robinson reminisced, "Frank had a terrific legal mind and was my adopted "law" dad. I recall I met with Frank over dinner in1995 to discuss a case which I needed his assistance. It involved the doctrine of *respondeat superior* [an employer is liable for the acts of his employees when they are within the course and scope of his employment]. He cited me to a California Supreme Court case, *Hinman v. Westinghouse*. Little did I know that it was Frank's case, and to my knowledge, is still cited today as the leading case in that area of law. I will miss him."

Retired Justice Armand Arabian eulogized Judge Brown at his funeral, "He was my one and only mentor. I met him in 1962, right out of law school, when I was a deputy district attorney. I soon shared space with him and Paul Major in Van Nuys, until I opened my own offices. When I was appointed to the Bench, he moved into my offices and closed my practice. We were great friends until he died."

Long-time associate member **David Kaplan**, better known as the Notary of the Valley, passed away on March 3 in Woodland Hills at the age of 76. His classified ad was a constant in *Valley Lawyer*, and its predecessor *Bar Notes*, for thirteen years. He traveled 24/7 to offices and homes, jails, nursing homes and hospitals to provide his services to attorneys and their clients. I have fond memories of David visiting our Bar offices to pay an invoice or just say hello.

***Liz Post** can be contacted at epost@sfvba.org or (818) 227-0490, ext. 101.*

Trusted Referrals Since 1948

ROSIE SOTO
Director of
Public Services

THE ATTORNEY REFERRAL Service (ARS), a public service of the San Fernando Valley Bar Association, is certified by the State Bar of California and meets standards for lawyer referral services, set by the American Bar Association.

ARS offers important services to the public and businesses. It's an outstanding resource for potential clients who need an attorney but aren't sure where to turn. Each year, ARS staff handles thousands of referral requests by phone, fax, mail, email or through the SFVBA website, from people and companies looking for an attorney in the San Fernando Valley.

Anyone with a legal matter looking for a reliable and trusted referral to a lawyer can benefit a great deal from using the attorney referral service – an individual thinking about estate planning, or wanting to resolve a debt collection matter before it winds up in court, or whatever predicament has turned into a legal issue (like a serious illness, foreclosure or a dispute with a contractor). And business owners and professionals can look to the ARS for proactive solutions to help plan for, prevent and resolve legal matters.

When someone with a legal matter contacts the ARS, a trained ARS Consultant evaluates each situation and makes a preliminary determination if the problem is truly of a legal nature. Each potential client must answer certain questions before a referral is made. The referral consultant begins by explaining that the service is certified by the State Bar, and that the attorneys meet qualification requirements and carry liability insurance. The potential client learns about the $30 administrative fee (which does not apply to all cases) but that the 30 minute consultation with the attorney is free. Potential clients are informed that additional services may be contracted at the attorney's regular rates.

Once it is determined that the client is eligible for a referral, their contact and legal matter are entered into the database. The database then selects the ARS attorney who meets the requested criteria and is due the next referral.

The ARS staff recognizes the importance of satisfied customers. It all begins by screening inquiries and referring the client to other service agencies when appropriate, and most important, it provides the client with a referral to an attorney who has experience in the area of law appropriate to the client's needs.

> "97% of clients that have used the ARS are satisfied with the service."

The ARS sends a quality of service survey to every referral client. The return rate is excellent and clients are usually very pleased with the information and representation they receive – 97% of the clients that have used the ARS are satisfied with the service.

Year after year, the ARS finds unique ways to serve the public in varied settings. The Attorney Referral Service Committee and staff regularly review new outreach and marketing ideas. This fiscal year, the ARS sponsored the 14th Annual Latino Expo at the Panorama Mall and the "Dia de los Muertos" festival in Canoga Park. The ARS is in the process of updating the ARS court signs in the Van Nuys East and West buildings. The ARS is also proud of the growth of services for the elderly through the Senior Citizen Legal program, which has expanded to the Sunland Senior Center.

On December 13, 2010, ARS programs throughout the country kicked off a collaboration with the U.S. Department of Labor and the American Bar Association. Workers with a Fair Labor Standards or Family Medical Leave complaint will be linked to an attorney through local lawyer referral programs by calling 1-866-4US-WAGE (1-866-487-9243). Workers who have labor related complaints will receive a letter listing the hotline and their rights, including the possibility of winning attorney's fees. Callers to the hotline will be referred by the zip code of their employer.

Many ARS panel members have been with the referral service for decades and they are excellent members. They play a significant role in the association's longevity. As each member becomes more and more familiar with how ARS works, they find it a beneficial service to provide them with appropriate referrals (to and from the program) and encourage new members to join. ARS is a "must join" program.

Rosie Soto can be contacted at referrals@sfvba.org or (818) 227-0490, ext. 104.

Understanding Clients with Personality Disorders

By Jane Bryson, Ph.D.

PEOPLE IN NEED OF AN ATTORNEY INVARIABLY are experiencing some form of stress. In the best situations, they are in control of their emotions. But there are some whose emotional distress is overwhelming and unyielding. These clients are suddenly and easily angered. They are highly demanding, yet unhelpful in resolving their legal issues. And they are unrelenting in their blame of others.

The surprising thing is that they may initially appear to be quite charming and persuasive and can be functioning at high levels in their professional lives. However, as many attorneys have experienced, representing them can utilize time, resources and emotional energy well beyond one's initial expectation.

Some of these difficult clients may have what is psychiatrically defined as a personality disorder or, because of the stress of the legal dispute, are experiencing an exacerbation of underlying severe personality traits. There is a cluster of four personality disorders that are most likely to come to the attention of attorneys and increase the probability of a high conflict legal dispute.

The defining of these types is not for diagnostic purposes, but rather to provide an understanding of such behaviors and to promote a more productive working relationship with these difficult clients. The personality disorders discussed are borderline, narcissistic, antisocial and histrionic.

Borderline Personalities

Susan is the plaintiff in a divorce and custody suit. Susan exclaims how grateful she is to have such distinguished representation, and continues to be very complimentary and engaging in the course of the consultations. However, when an initial motion to restrict Susan's husband's visitation with their 3-year-old daughter is denied, Susan is livid and questions the competency of her attorney.

She begins to use an emergency phone number to reach the attorney after hours with crises, such as the father being twenty-seven minutes late when returning the child. Susan begins to report her daughter is unmanageable after paternal visits and begins to suspect physical and possibly even sexual abuse by father. She wants something done immediately and peppers the attorney's email, voice mail and fax with increasingly frantic and alarming allegations. When asked for information to corroborate her claims, she screams at her attorney for being unsupportive and uncaring. Meanwhile, it comes to the attorney's attention that Susan has an alleged drinking problem and has been hospitalized once for suicidality.

Borderline personalities are identified by their extreme mood swings, fears of abandonment, frequent angry outbursts and impulsive and manipulative behavior. Psychologically, they have an unstable self identity, or sense of self, and have underlying chronic feelings of emptiness. Initial idealizations of others are often followed by angry devaluation when unrealistic expectations are not met.

Like the other personality disorders, these challenging clients are driven by internal feelings of distress (e.g., feared abandonment) but they see their difficulties in dealing with others as external to themselves. They view themselves as victims and, as Mason and Kerger, authors of "Stop Walking on Eggshells" note, are prone to cognitive distortions, as they consciously or unconsciously revise facts to fit their perceptions of blame.

Attorneys working with clients with borderline personalities should:

- Stay on point and not be taken in by initial idealizations
- Establish clear boundaries (consider an agreement of service that includes guidelines for communications, realistic response times and definitions of emergencies)
- Set realistic expectations for the legal process
- Expect inconsistency in behavior
- Listen patiently to anger and blame, and avoid defensive over-reactions
- Validate the person rather than criticizing their behavior (e.g., After a screaming match prompted by a late drop-off, it would be helpful to reply with something like, "I know you love your daughter and worry about her welfare and safety," and then suggest there may be alternative means to deal with these concerns in future visitations)
- Avoid the temptation to abruptly terminate the relationship

Narcissistic Personalities

A very successful physician is the defendant of a sexual harassment suit filed by a former office employee. The client is confident of winning, and completely dismissive of the charges, making it difficult for the attorney representing him to even gather necessary facts for his defense. The client cancels office appointments at the last minute, and expects special accommodations from the attorney and his staff.

When a potentially very damaging declaration is finally reviewed with the defendant, he becomes enraged, calling the plaintiff "a whore who is only after my money." He threatens to fire his attorney if he doesn't prepare a satisfactory response.

Narcissistic personalities are preoccupied with themselves, expect to be treated as superior and have little regard or even distain for the needs of others. As Bill Eddy, author of "High Conflict People" notes, it is easy to see how many narcissistic personalities end up in court, "They are blind to their own responsibility and the unrealistic quality of their expectations and fantasies, they often feel like victims and blame those around them for their troubles." Their grandiosity, intolerance of criticism, lack of empathy and feelings of entitlement make them very challenging legal clients.

Attorneys working with clients with narcissistic personalities should:

- Clarify your expectations and boundaries
- Recognize their real strengths and accomplishments
- Listen with empathy
- Avoid direct criticism
- Share decision making
- Explain the benefits of following advice and the consequences of misconduct

Antisocial Personalities

Charlie is the divorced father of a 10-year-old boy. He is a charming and fast-talking man who retains a new attorney post-divorce to petition for a change in the custody agreement. He wants a switch from his current 30% of shared parenting time, to sole physical custody of the child. The mother is adamantly against the switch and is plainly suspicious of his motives. The judge orders a child custody evaluation.

According to the evaluation, the boy says he wants to live with his father and describes his mother in adult-like terms such as "unfit" and "emotionally abusive." The boy says he loves his father more. He tells the evaluator that his father is more fun and has promised him a motorbike and a flat screen TV in his new room when he comes to live with him.

The mother reports the marriage ended because of the father's frequent affairs, threatening behavior and numerous legal problems. She alleges the father is primarily motivated to seek custody to eliminate his child support obligations. The evaluator finds some evidence to support this, and reports "the father is an unreliable reporter of facts and prone to shift stories when inconsistencies are revealed."

Antisocial personalities are characterized by a disregard for the rules of society, a lack of empathy for the needs of others and a willingness to hurt others for personal gain. Psychologically they fear domination, and are therefore motivated to dominate and control others. More than in other personality disorders, there appears to be a genetic component: a diagnosis of anti-social personality disorder requires a pervasive pattern of disregard for and violation of the rights of others already observable by the age of fifteen.

A hallmark of the disorder is repeated lying. The antisocial personality's focus is on immediate gratification, and includes conning others for personal profit or pleasure. Irritability and aggressiveness are common, often with a history of physical fights or assaults. Not surprisingly, many antisocial personality disorders end up in the legal system accused of crimes. Irresponsibility in work, relationships and financial obligations are characteristic, as well as a lack of remorse or guilt for having hurt, mistreated or stolen from others.

Attorneys working with clients with antisocial personalities should:

- Maintain a healthy skepticism
- Avoid being swayed by their often considerable charm
- Seek confirmatory data
- Expect a lack of cooperation
- Be cautious of requests for favors
- Set limits about lying and stick to them
- Be attentive to protect oneself, physically and legally

Histrionic Personality

Sophia is the defendant in a breach of contract suit filed by Toujours Jeune Cosmetics. The company alleges Sophia violated the terms of an exclusivity contract by modeling for a competing company. Sophia is irate about the charges and, in a highly dramatic presentation to her attorney, claims that she is the one who has been mistreated and wronged by the company. She states she wishes to file a counter suit against Tourjours Jeune but, despite the intensity of her feelings, her attorney finds it difficult to ascertain the grounds for her grievances. She is angry and helpless, and unable or unwilling to comply with requests for data to substantiate her claims.

Hysterical personalities have a pervasive pattern of emotionality and attention-seeking. Psychologically, they fear being ignored and are therefore self-dramatizing. They are prone to exaggerated presentations lacking in specific detail. They may appear to be charming and flirtatious, but they are often flighty and superficial in relationships. The people who know them well are likely to see them as ill-tempered, insensitive and manipulative. They lack insight to their own behavior and their judgment tends to be unreliable and highly erratic.

Attorneys working with clients with histrionic personalities should:

- Listen respectfully but get the facts
- Focus on tasks, set structure
- Validate feelings over content
- Pay attention, but set limits on stories
- Avoid overreacting to intense emotions
- Be specific in requests
- Avoid reacting with anger or intense criticism
- Reassure and reinforce their self reliance

Individuals with personality disorders or severe personality traits are challenging as clients as they are highly reactive, blaming and focusing on feelings over facts. Understanding these disorders can help an attorney more effectively work with these clients, including acknowledging their feelings but respectfully shifting the focus to problem solving and the legal tasks at hand.

***Dr. Jane Bryson** is a clinical psychologist practicing in Santa Monica. She specializes in psychotherapy with adults, as well as counseling, evaluations and mediation related to divorce and custody issues. She can be reached at (310) 570-2509 or jb@jbrysonphd.com.*

Tee Time for Attorneys:
Network and Ease Stress at the SFVBA Golf Tournament


Charles A. Shultz


Sue Bendavid


Cynthia Elkins

By Angela M. Hutchinson

THE SFVBA GOLF TOURNAMENT WILL TAKE PLACE ON MONDAY, MAY16 AT THE NEW AND IMPROVED Braemar Country Club in Tarzana. Golfers of all levels are encouraged to attend; non-golfers can come and enjoy a day at the pool and tennis courts. The club house, golf shop and pool area have all been renovated. *Valley Lawyer* had the opportunity to interview three attorney members that have attended a SFVBA golf tournament in previous years. Below they share the benefits of playing in the tournament along with their view on networking and work-life balance.

Meet the Attorneys

Charles A. Shultz is a partner with the law firm of Wasserman, Comden, Casselman & Esensten, LLP and head of the firm's Estate Planning, Trust Administration and Trust Litigation Department. Sue Bendavid is a litigation partner specializing in employment law for Lewitt, Hackman, Shapiro, Marshall & Harlan in Encino. Cynthia Elkins of Elkins Employment Law is a sole practitioner in Woodland Hills representing and defending employers in all aspects of personnel and employment law concerns.

***Valley Lawyer:* Why do you believe it is important to balance work life with personal and family life, particularly as an attorney?**

Charles Shultz: As an attorney, your firm and your clients have to have some priority. At the end of the day, you need to step back and ask why are you working. The answer usually is to support our families and build a future. What are you really building if you ignore your personal life and your family? When you eventually reach your goal, you will find yourself alone.

Sue Bendavid: Simply put: There is no "rewind button" on life. Life is too short to miss out on the things that really matter. As a plus, I also think it makes you a better attorney. When I am consulting on employee problems, I am often told personal stories by my clients about their lives, their children, their spouses, vacations, etc. When we can share these times, it creates a bond and friendship that ultimately results in a mutual trust and respect. It's the personal relationships between people that lead to long-term client relationships.

Cynthia Elkins: Maintaining a strong balance between personal/family life is critical to our well being; otherwise, we can let important personal relationships slide and we can get lost in being a lawyer. The work that we do is very demanding and stressful, whether we are litigators, transactional attorneys or practicing in any other area. Our clients depend on our skill and expertise and there are deadlines to be met, which puts a tremendous amount of pressure on us. As a result, I think is extremely important to just be able to stop being a lawyer and go out and doing something fun.

If you don't allow yourself the "down time" to spend with family and friends, you forget that you are a person first, and a lawyer second and our jobs take over our lives. I make it a point to have a balanced work vs. personal life. I travel alot, which at times is difficult being a solo practitioner, but I make the time because I need to get away from the office, and I come back to the office refreshed and better focused. I also belong to other non-legal organizations. I participate in a lot of other personal pursuits (such as going to Kings Hockey games so I can yell and it's ok).

***VL:* Can you give an example of when networking at a social event helped your career in some way?**

SB: I've received many clients as a result of attending social events. As just one example, a few years ago I was at a BBQ talking with someone I had recently met and when she found out I was an employment attorney, she disclosed they were just served with a wage and hour class action. I've been their counsel ever since.

CE: Networking at a social event can be very beneficial to building your practice and having as many people as possible know who you are and what you do. While you should not turn every social event into a "networking event", you never know when the person you are speaking to is going to need a lawyer some day or they know someone who needs you. Or if they are a lawyer, and don't practice in the same area as you, it could lead to a referral.

CS: You never know who you will meet. Meeting someone with a common interest (outside of law) is always great for building lasting relationships. I have met people talking about wine and or golf and forged good friendships. As a secondary benefit, those friendships have benefited me with referrals.

***VL:* Did you attend the last SFVBA golf tournament? What did you like most?**

CE: It was a great opportunity to visit with people that I had not seen in a long time, in a more casual and friendly environment. Going to MCLE events doesn't give you the same opportunity to socialize and to get to know your colleagues – spending the day golfing, laughing and joking around is just more conducive to really getting to know your colleagues.

CS: Yes. The atmosphere is conducive to talking with people on a personal

San Fernando Valley Bar Association
GOLF TOURNAMENT

Proceeds benefit the public service and charitable programs of the SFVBA

Monday, May 16, 2011

"New" Braemar Country Club • Tarzana

10:00 A.M. CHECK-IN | 10:30 A.M. PUTTING CONTEST | 11:30 A.M. SHOTGUN START
5:30 P.M. AWARDS RECEPTION AND DINNER

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PLAYER'S PACKAGE

- ❍ $225 purchased by April 30
- ❍ $250 after April 30
- ❍ $150 Sitting Judge

Includes green fees, cart, tee gifts, beverages, lunch and awards reception and dinner.

SPONSORSHIP OPPORTUNITIES*

❍ **Eagle Sponsor** — $4,000
Includes two golf foursome packages, 2 additional tickets for awards dinner for a table of 10, sign at tee, name/logo prominently displayed in promotional material, banner and carts.

❍ **Birdie Sponsor** — $2,500
Includes one golf foursome package, 1 additional ticket for awards dinner, name included in promotional material and sign at tee.

❍ **Hole-in-One Sponsor** — $1,500
Hit a Hole-In-One on a par 3 hole and win a vacation. We will place sponsorship signs on every par 3 hole on course. Includes 2 tickets to awards dinner.
(Only 1 sponsor)

❍ **Tee Sponsor** — $500
By sponsoring a tee/green sign on the course your firm or company can show your support for the SFVBA's good works. You may hand out gifts and information to the golfers at your sponsored hole. Includes 1 ticket to awards dinner.

OTHER SPONSORSHIP OPPORTUNITIES*

❍ **Cocktail Reception Sponsor** — Sold Out
The awards reception will be a fun filled event! We will place sponsorship signs on the bar. Includes 2 tickets to awards dinner.

CITY NATIONAL BANK
The way up.

❍ **Photo Sponsor** — $1,500
Every golfer will receive a framed photo with a picture of their foursome and shots of each golfer. Your logo will be included on the frame. Includes 2 tickets to awards dinner.
(Only 2 sponsors)

❍ **Putting Contest Sponsor** — $1,000
We'll display a sign at the putting contest showing your support. We'll mention your sponsorship when we announce the winner of the putting contest. Includes 2 tickets to awards dinner.
(Only 1 sponsor)

❍ **Beverage Cart Sponsor** — Sold Out
Sponsor a favorite golfer spot! We will acknowledge your sponsorship by placing a sign in one beverage cart and you may hand out gifts to the golfers from your cart. Includes 1 ticket to awards dinner.

Law Office of Patricia L. McCabe

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ABA Retirement Funds™

* All sponsors receive recognition on the SFVBA website and in Valley Lawyer magazine and acknowledgment at awards dinner.

For more information about the tournament and sponsorship opportunities, contact 818.227.0490, ext. 105.

and professional level. Our firm invited several clients and referral sources. Everyone had a good time.

SB: What I liked most about the golf tournament was being teamed up with a dynamic group of community business leaders (two clients and a lawyer/friend). None of us were expert golfers (by any means), so we had fun laughing about how poorly we were playing. I still play with two of them as often as we can.

***VL:* Why would you encourage other SFVBA members to participate in the tournament this year?**

SB: It's a lot of fun and a great cause. As an additional benefit, if you are teamed up with clients or referral sources, it can also help create or cement positive personal relationships.

CS: It is a fun event, a wonderful day out of the office, a great way to show appreciation to a valuable client and good way to get to know colleagues in a different light.

CE: For the reasons, that I participated in it last year – to have a great day out of the office with colleagues.

***VL:* If you could change one thing about your day to make it less stressful, what would it be?**

CS: Start my day a little earlier.

CE: Manage my time better. I should set aside a specific time during the day to respond to emails as opposed to reading and responding to them as they arrive. If I put aside some time during the day, then responding to emails would not interrupt what I was doing at the moment and I would not get distracted.

SB: Make the day longer. Actually, I should probably turn the Blackberry off when I get home. But that won't happen. I often have clients with emergencies or other needs after regular work hours. They appreciate knowing they can reach me when they need or want.

***VL:* Give advice/anecdotal food for thought to an attorney that may live by this equation: ALL WORK + NO PLAY = $UCCESS**

CS: Scrooge lived by the same philosophy. At least he woke up before it was too late. If you have all the marbles and die at 50, what good was it to collect all the marbles? You need to enjoy your success, and share it with family, friends or significant others.

SB: Just the opposite. Spending time "playing" makes the lawyer a "whole person" and not just an automaton spitting out briefs and memos. The lawyer who spends time socializing with clients and referral sources is the lawyer who creates long term trust relationships that can lead to clients and ultimately financial success.

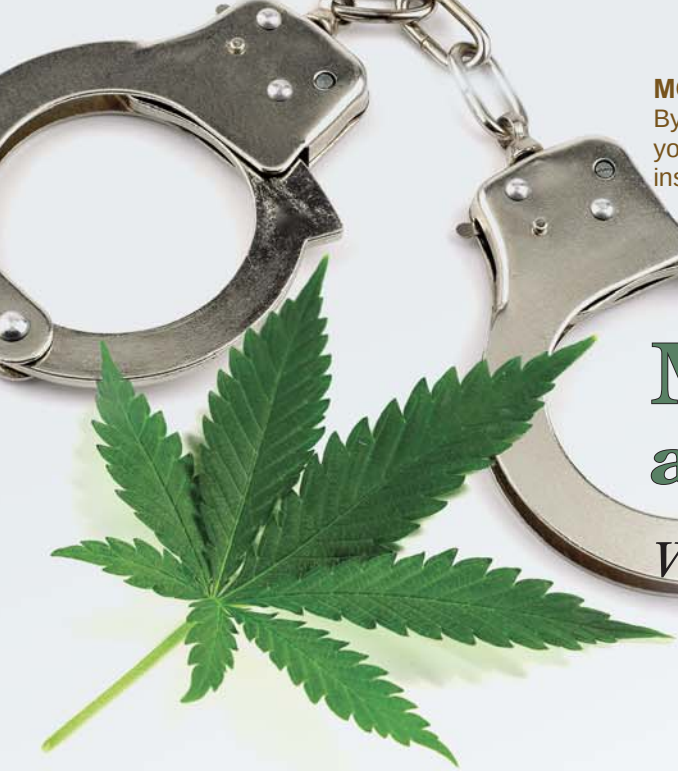
CE: We've all heard the expression that money doesn't buy happiness and we all strive for monetary success, but really working all the time is just bad business. You can get burned out, you can get sick and you can get to the point where it just becomes too much. Many attorneys may find it difficult to balance work with personal life, due to various factors and pressures.

What do you think helps to achieve living a balanced life? As a solo practitioner, it has taken me years to figure out how to achieve a balance life and I have learned to "just say no" to certain things. I have turned down certain requests, such as sitting on a board of director for an organization because I just didn't see how I could fit it into my schedule. Also, I'm not embarrassed to ask for reasonable extensions of time if I just haven't been able to meet a deadline. I'd rather ask for an extension than work until midnight when I know I'm not doing my best work.

Also, one thing that I have developed is a professional friendship with a colleague who also practices employment law on the defense side and we "cover" for each other so that we can go on vacations and not be afraid that our client's needs will go unattended. We trust each other not to poach each other's clients and we know that the other is fully experienced and qualified to handle emergency situations that may arise. This gives me the comfort to be able to travel and not take my laptop everywhere I go, nor feel compelled to check my PDA every 5 minutes.

Sponsorships are still available! Please call Linda Temkin at (818) 227-0490, ext 105 for further details.

***Angela M. Hutchinson** is the Editor of Valley Lawyer magazine and has served the SFVBA in this capacity for the past 3 years. She also works as a communications consultant, helping businesses and non-profit organizations develop and execute various media and marketing initiatives. She can be reached at editor@sfvba.org.*



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

Marijuana Possession and the Law:

What Attorneys Need to Know

By Gerald L. Fogelman

ON OCTOBER 1, 2010, OUTGOING GOVERNOR Arnold Schwarzenegger signed into law Senate Bill 1449, making possession of less than an ounce of marijuana an "infraction," instead of a misdemeanor, effective January 1, 2011.

The change in Health and Safety Code Section 11357(b) did not eliminate the need for an attorney and what attorneys need to know when representing clients for possession of less than an ounce of marijuana. The Health and Safety Code (referred to herein as H&S), related Penal Code (referred to as P.C.) and related Vehicle Code (referred to as V.C.) provisions regarding personal possession of marijuana, as well as an additional layer of code sections relating to the law regarding personal possession of marijuana for medical purposes, can be a maze to understand.

To provide an understanding of the intricacies of the law regarding possession of marijuana in California, the first topic covered will be personal possession of marijuana, including the consequences that attorneys need to be aware of, when representing clients who have been charged with violations of H&S §11357(b) or V.C. §23222(b), involving simple possession of less than an ounce of marijuana for personal use, and the same, while driving a motor vehicle, respectively, as infractions. The laws regarding medical marijuana will be touched on only as they relate to simple possession of marijuana for personal use.

H&S §11357(b) states, "Except as authorized by law, every person who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of an infraction punishable by a fine of not more than one hundred dollars." The only change in §11357(b) is the replacement of the word "misdemeanor," with the word, "infraction." It should be noted that the punishment was the same when it was a misdemeanor. There was a maximum fine of $100 and one could not be given jail time.

What is an infraction? P.C. §16 states that "crimes and public offenses" include "infractions." Therefore, a Notice to Appear for a violation of H&S §11357(b), or V.C. §23222(b), is not "just a ticket," it is not "just a civil violation." P.C. §853.5 states that in any case in which a person is arrested for an offense declared to be an infraction, there is a preference to release the person with a Notice to Appear. Therefore, one should be concerned about an arrest record, even though he was not booked nor fingerprinted at a jail.

P.C. §13150 requires the arresting agency to report each arrest made to the Department of Justice. Additionally, convictions for such an offense result in an entry in the Department of Justice criminal record database. (See P.C. §13151) Thus, it will give an individual a criminal record. For a variety of obvious reasons, including employment, professional licensing and background checks, one may not want a conviction for that offense on one's record, be it a misdemeanor or an infraction.

What has changed? Because a violation of H&S §11357(b) is now an infraction, a person so charged is not entitled to a trial by jury, nor is one entitled to have the public defender, or other counsel appointed at public expense. (P.C. §19.6) These certainly are important rights to lose. However, one does have the right to retain an attorney at his own expense. The attorney can try to protect the client from some of the collateral consequences set forth herein, litigate any Fourth Amendment (Search and Seizure) issues and litigate sufficiency of the evidence issues. The attorney can also represent the client in a court trial as to guilt or innocence.

Collateral Consequences

There are collateral consequences to one's privilege to drive a motor vehicle if convicted of a violation of a violation of H&S Code §11357(b), if one is less than 21 years of age. This includes findings in Juvenile Court of such a violation for those less than 18 years of age. For these individuals, the court shall suspend their driving privileges for one year. (V.C. §13202.5)

At this point, one might feel relieved that this only applies to those under 21 years of age. Well, that is not so. V.C. §13202(b) states that the court shall order that the Department of Motor Vehicles shall revoke the privilege of any person to operate a motor vehicle upon conviction for a violation of H&S §11357(b), "when a motor vehicle was involved in, or incidental to, the commission of such offense." The period of suspension shall be determined by the court, but in no event shall such period exceed three years from the date of conviction.

V.C. §13202 does not require that the vehicle be "used" in the commission of the crime. Instead, the license suspension

is authorized if the vehicle is involved in, or incidental to the commission of the offense. As generally understood, "incidental" implies only a weak or even unintentional connection: it may be defined as subordinate, non-essential or attendant in position or significance. Employment of a vehicle to move both the offender and the contraband readily meets this low standard. (*People v. Monday* (1990) 224 Cal.App.3d 1489)

In this mobile society, most of the time, arrests for possession of marijuana for personal use occur when the person is driving a motor vehicle in a routine traffic stop. Indeed, traffic stops seem to be the most common contact between a person and law enforcement. In the *Monday* case, the defendant was the driver and it was his car.

When representing a college student, be sure to review 5 California Code of Regulations 41301 regarding administrative discipline for possession of controlled substances, including the impact of convictions for these offenses. Additionally, controlled substance convictions can result in a denial of student loan eligibility for a period of time. (20 U.S.C. §1091(r)) These should be looked into by the attorney when advising a college student client.

How long does a violation of H&S §11357(b) stay on one's criminal record? H&S §11361.5(a) states that the records of any court of this state, or any state agency, pertaining to the arrest or conviction of any person for a violation of H&S §11357(b) shall not be kept beyond two years from the date of conviction, or date of arrest, if there was no conviction.

H&S §11361.5(c) states that the destruction of such arrest and conviction records shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred.

H&S §11361.7(a) states that any record subject to such destruction or permanent obliteration shall not be considered to be accurate, relevant, timely or complete for any purpose by any agency, or person. Thus, virtually nothing can be denied a person based upon that arrest or conviction.

H&S §11361.7(c) specifically allows any person arrested or convicted for such offense, after two years from the date of conviction, or from the date of arrest, if there was no conviction, to indicate in response to any question concerning his prior criminal record that he was not arrested or convicted for such offense.

Governor Schwarzenegger signed another law, V.C. §23222(b), which relates to marijuana, effective January 1, 2011. V.C. §23222(b) states, "Except as authorized by law, every person who possesses, while driving a motor upon a highway or lands, as described in subdivision (b) of §23220, not more than one avoirdupois ounce of marijuana, other than concentrated cannabis as defined by §11006.5 of the Health and Safety Code, is guilty of an infraction punishable by a fine of not more than one hundred dollars." Prior to this change, it was a misdemeanor, just as H&S §11357(b) was. Additionally, there could only be a fine of $100 and jail was not permitted.

Simple Possession Differentiations

There is significant difference between simple possession of less than an ounce of marijuana for personal use, in violation of H&S §11357(b), and simple possession of less than an ounce for personal use, when a vehicle was involved or incidental thereto, in violation of V.C. §23222(b).

H&S Sections 11361.5 and 11361.7, regarding destruction of conviction and arrest records for those arrested for, or

convicted of, a violation of H&S §11357(b), do not apply to arrests, or convictions, for violation of V.C. §23222(b). An arrest, or conviction, for violation of V.C. §23222(b) remains on the client's record.

Additionally, while a conviction for V.C. §23222(b), is not included in the mandatory suspension of driving privileges set forth in V.C. §13202(b), it does involve conviction for a controlled substance, marijuana, involving a vehicle, and the court may, but is not required to, order the Department of Motor Vehicles to suspend client's license for a period not to exceed three years. (V.C. §13202(a))

An important consideration to consider when dealing with these cases is that a conviction for either one of these infractions, involving possession of marijuana for personal use, can be grounds for violating a client's probation in another case. (P.C. §19.8) Often conviction for infractions cannot be the basis for a probation violation in another case. However, P.C. §19.8 specifically excepts offenses that are enumerated in V.C. §13202.5(d), which includes H&S §11357(b) and V.C. §23222(b). Therefore, it is important that an attorney check to see if his client is on probation in another case.

Additionally, even if the attorney helps client avoid suffering a conviction for either of these two offenses, the underlying conduct, i.e., possession of drugs, may in itself be a violation of specific condition of the client's probation in another case, such as a common condition to not possess any controlled substances without a valid prescription, and to obey all laws. Therefore, whether, or not, the client is on probation for another offense will be a significant factor in representing a client charged with a violation of either of these marijuana infractions.

Deferred Entry of Judgment

For those who do not want to have a record of conviction for violation of H&S §11357(b) on their records for two years, those who do not want a conviction for violation of V.C. §23222(b), on their records, and those under 21 years of age, and 18 years or older, who want to avoid many of the pitfalls set forth in this article, there is a way out of most of the above consequences. It is a diversion type program entitled Deferred Entry of Judgment, commonly referred to as "DEJ."

The code sections laying out DEJ are set forth in P.C. Sections 1000 through 1000.4. Under P.C. §1000, a person charged with a violation of either H&S §11357(b), or V.C. §23222(b), is eligible for DEJ if all of the following occurs:

1. The defendant has no conviction for any offense involving controlled substances prior to the alleged commission of the charged offense.
2. The offense charged did not involve a crime of violence or threatened violence.
3. There is no evidence of a violation relating to narcotics or restricted dangerous drugs other than the violation of the sections listed in this subdivision.
4. The defendant's record does not indicate that probation or parole has ever been revoked without thereafter being completed.
5. The defendant's record does not indicate that he or she has successfully completed or been terminated from diversion or deferred entry of judgment pursuant to this chapter within the five years prior to the alleged commission of the charged offense.
6. The defendant has no prior felony conviction within five years prior to the alleged commission of the charged offense.

If the client qualifies for DEJ, then in order to accept DEJ, he or she must enter a plea of guilty to the charge and waive time for the pronouncement of Judgment (sentencing). The client will be ordered to attend an approved DEJ program, which typically lasts six months. However, the period for which the client will be on DEJ will be no less than 18 months, nor more than three years. Normally, it is 18 months.

Clients who are on DEJ, are subject to drug testing. The period between the end of the educational part of the program and the end of the DEJ program, for misdemeanors, are usually unsupervised, and meant to see if the client can go the distance without violating the terms of his DEJ.

An important benefit of DEJ is that "a defendant's plea of guilty pursuant to this chapter shall not constitute a conviction for any purpose unless a judgment of guilty is entered pursuant to P.C. §1000.3." The only way such a judgment is entered is if the client drops out of, or fails to complete, the DEJ program. That means that during the term of DEJ, his plea of guilty is not a conviction.

For immigration purposes, however, the federal government considers the plea of guilty as a conviction. Whether that applies to these infractions is an open question. (See *Matter of Eslamizar* 23 I&N 684 (BIA 2004)) Therefore, at least, between the entry of the plea and until the case is dismissed, usually 18 months later, the client may suffer immigration consequences. The attorney should always keep this in mind, when representing a non-citizen, and confer with an immigration attorney, if necessary, before making the DEJ decision.

Upon successful completion of a DEJ program, the arrest upon which the judgment was deferred shall be deemed to have never occurred.

The client may indicate in response to any question concerning his or her prior criminal record, except in applications to become a peace officer, that he or she was not arrested or granted deferred entry of judgment for the offense. A record pertaining to an arrest resulting in successful completion of a DEJ program shall not, without the client's consent, be used in any way that could result in the denial of any employment, benefit, license or certificate. (H&S §1000.4)

Misdemeanor

Some things have not changed. Possession of more than an ounce of marijuana, even if for personal use, remains a misdemeanor, punishable by up to six months in the county jail and up to a $500 fine. (H&S §11357(c)) However, a violation of this code section is subject to the same two year destruction of criminal record, as the above discussed possession of less than an ounce of marijuana for personal use is. A client charged with this code section is eligible for the DEJ Program.

Because the recent revision to H&S §11357 left §11357(c) as a misdemeanor, the defendant has the important right to a trial by jury, and the right to be represented by the public defender, or other appointed counsel, should he be unable to privately retain counsel of his choice. That is a huge difference. The collateral driving privilege consequences remain the same, as discussed above in relation to H&S §11357(b), if a vehicle is involved, or if the person is under 21 years of age. (See V.C. §13202(a) and V.C. §13202.5) In fact, the attorney has all of the same collateral consequence concerns, as noted above.

Another code section that should be mentioned is H&S §11360(b), which makes transportation of less than an ounce of marijuana, for personal use, a misdemeanor punishable by not more than a $100 fine. No jail is involved, just as for H&S §11357(b) and V.C. §23222(b) before the recent modification of these two code sections from misdemeanors to infractions. H&S §11360(b) is also subject to the same destruction of criminal records after two years, as the other two code sections discussed above.

H&S §11360(b) has the same collateral consequences discussed above, including the same driving privilege consequences as a violation of H&S §11357(b), if a vehicle is involved, or if the person is under 21 years of age (See V.C. §13202(a) and V.C. §13202.5), and the same concerns for the attorney representing the client. However, as H&S §11360(b) is a misdemeanor, a defendant still has the right to a trial by jury, and the services of a public defender, or other court appointed attorney, should he not be able to afford privately retained counsel.

The problem with representing a client for a violation of H&S §11360(b), as to transportation, of less than an ounce, for personal use, is that said violation is not listed in the offenses eligible for DEJ. (P.C. §1000) Therefore, it would appear that the DEJ option is closed to such a client.

It should be noted that only the portion relating to "transportation" in H&S §11360(b), is discussed herein. This article focuses on possession of marijuana for personal use. However, often people transport their marijuana with them by car. An attorney should consider arguing that since V.C. §22322(b) is an offense listed in P.C. §1000(a), that H&S §11360(b), should be judicially interpreted to be included in the offenses eligible for DEJ, as they both involve transporting less than an ounce of marijuana for personal use, similar conduct. By analogy, for such an argument, the attorney should consider the following cases: *People v. Trippet* (1997) 56 Cal.App.4th 1532 and *City of Garden Grove v. Felix Kha* (2007) 157 Cal.App.4th 355, which would be an excellent start for such an argument.

Medical Marijuana

H&S §11362.5 is known as the Compassionate Use Act, passed by

voters in 1996 (Proposition 215). The Act insures that patients, and their primary caregivers, who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction. H&S §11362.5(d) specifically states that H&S §11357 shall not apply to a patient, or a patient's primary caregiver, who possesses marijuana for the personal medical purposes of the patient upon the written or oral recommendation of a physician.

H&S §11362.7, et al., passed by voters in 2003 (The Medical Marijuana Program), deals with the medical marijuana identification card process and protocols, in much more detail. For a thorough understanding of the medical marijuana laws, one should study H&S Sections 11362.5 through 11362.83.

Under H&S §11362.765, a qualified patient, who transports or possesses marijuana for his or her own use, shall not be subject, on that sole basis, to criminal liability under H&S §§11357 and 11360, among other sections. H&S §11362.7(f) defines a "qualified patient" as a person who is entitled to the protections of H&S §11362.5 (The Compassionate Use Act), but who does not have an identification card. Therefore, a qualified patient, with only a written, or verbal, marijuana recommendation by a physician, is also protected from criminal liability, under H&S §11362.765.

Because there is such a maze of code sections dealing with, or related to, controlled substances, often logical inconsistencies occur in legislation. Counsel will note that neither H&S §11362.5 (The Compassionate Use Act) nor H&S §11362.765 include protection from prosecution for a violation of V.C. §23222(b), yet does include protection from prosecution for violation of H&S §11360, both involving transportation of marijuana.

In *City of Garden Grove v. Felix Kha* (2007) 157 Cal. App.4th 355, the court ruled that the Medical Marijuana Program effectively authorizes the conduct described in V.C. §23222(b), when the conduct at issue is the transportation of a small amount of medical marijuana for personal use. Otherwise, a qualified patient could not transport their personal medical marijuana, which would defeat the purpose of the Compassionate Use Act, and the Medical Marijuana Program, to make medicinal marijuana available to those qualified patients. Therefore, under the Compassionate Use Act, and the Medical Marijuana Program, qualified patients possessing, or transporting, marijuana for personal medical purposes are protected from criminal liability.

The medical marijuana laws, and cases interpreting them, deal with transportation of more than an ounce of marijuana, cultivation and when the qualified patient is protected from criminal liability for those offenses, etc. In other words, qualified patients do not have carte blanche to possess, or transport, in amounts not necessary for their medical purposes.

Being a lawful qualified medical marijuana patient is an affirmative defense to alleged violations of the code sections discussed, but they are not necessarily free from arrest for such offenses. However, such issues are beyond the scope addressed.

Gerald L. Fogelman *has an office in Encino and is a former Deputy District Attorney who has practiced criminal defense since 1978, representing both adults and juveniles. He is an SFVBA Trustee, Programs Committee Chair and Chair of Criminal Law Section. Fogelman can be reached at (818) 906-9941 or ZSavant2@aol.com.*

MCLE Test No. 34

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. Making possession of less than an ounce of marijuana an infraction has changed the punishment for a conviction.
   True
   False

2. An infraction is not a crime or public offense.
   True
   False

3. An accused has the right to a jury trial when charged with a violation of H&S §11357(b), possession of less than an ounce of marijuana.
   True
   False

4. An accused has the right to a public defender, or court appointed attorney, when he is charged with a violation of V.C. §23222(b).
   True
   False

5. An accused can litigate 4th Amendment search and seizure issues when charged with violations of H&S §11357(b) and V.C. §23222(b).
   True
   False

6. Driving privileges can be suspended for a conviction of H&S §11357(b) or V.C. §23222(b).
   True
   False

7. A college student cannot be disciplined for a conviction of H&S §11357(b).
   True
   False

8. A college students eligibility for government student loans can be impacted based upon a conviction for H&S §11357(b) or V.C. §23222(b).
   True
   False

9. A record of conviction for a violation of V.C. §23222(b) is eliminated two years from the date of conviction, or two years from the date of arrest, if there was no conviction.
   True
   False

10. A conviction for violation of H&S §11357(b) or V.C. §23222(b), infractions, can be used to violate the defendant's probation in another case.
    True
    False

11. Successful completion of a DEJ program does not result in a conviction.
    True
    False

12. A defendant must enter a plea of guilty to the offense charged in order to take advantage of the DEJ.
    True
    False

13. A defendant can be accepted for the DEJ Program, even if the defendant completed a DEJ Program three years prior to the commission of the current offense.
    True
    False

14. P.C. §1000 does not necessarily permit DEJ for a person charged with a violation of transporting less than an ounce of marijuana in violation of H&S §11360(a).
    True
    False

15. There is no drug testing in the DEJ Program.
    True
    False

16. A defendant is eligible for DEJ even if he has a prior conviction for an offense involving a controlled substance.
    True
    False

17. A defendant, who is not a citizen, does not have to be concerned with immigration consequences based upon a conviction for a violation of H&S §11357(b) or V.C. §23222(b), as infractions.
    True
    False

18. Being a qualified patient under the Medical Marijuana Program statutes protects the defendant from criminal liability for violations of H&S §11357(b) and H&S §11360(a), when such possession is for medical purposes.
    True
    False

19. A qualified patient under the Medical Marijuana Program statutes is protected from criminal liability for violation of V.C. §23222(b), when the marijuana is possessed for medical purposes, while driving a motor vehicle.
    True
    False

20. Being a qualified patient under the Medical Marijuana Program statutes will always prevent your arrest for violations of the code sections discussed in this article.
    True
    False

MCLE Answer Sheet No. 34

INSTRUCTIONS:

1. Accurately complete this form.
2. Study the MCLE article in this issue.
3. Answer the test questions by marking the appropriate boxes below.
4. Mail this form and the $15 testing fee for SFVBA members (or $25 for non-SFVBA members) to:

   San Fernando Valley Bar Association
   21250 Califa Street, Suite 113
   Woodland Hills, CA 91367

METHOD OF PAYMENT:

❒ Check or money order payable to "SFVBA"
❒ Please charge my credit card for $_____.

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Credit Card Number Exp. Date

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Authorized Signature

5. Make a copy of this completed form for your records.
6. Correct answers and a CLE certificate will be mailed to you within 2 weeks. If you have any questions, please contact our office at (818) 227-0490, ext. 105.

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

1.	❑ True	❑ False
2.	❑ True	❑ False
3.	❑ True	❑ False
4.	❑ True	❑ False
5.	❑ True	❑ False
6.	❑ True	❑ False
7.	❑ True	❑ False
8.	❑ True	❑ False
9.	❑ True	❑ False
10.	❑ True	❑ False
11.	❑ True	❑ False
12.	❑ True	❑ False
13.	❑ True	❑ False
14.	❑ True	❑ False
15.	❑ True	❑ False
16.	❑ True	❑ False
17.	❑ True	❑ False
18.	❑ True	❑ False
19.	❑ True	❑ False
20.	❑ True	❑ False

Managing Disaster in Unpredictable Times

By Teresa Curry

NEARLY 250,000 PEOPLE ARE living in shelters as a result of Japan's massive earthquake. Few people doubt an earthquake is coming to California. Just last month, the Los Angeles Fire Department announced at a Red Cross meeting that it is more likely to center around Northern California, but no one really knows when the next earthquake, or other natural or manmade disaster, will strike the Los Angeles area.

Many individuals experience a catastrophic event at least once in their lifetime. In order to guarantee expedient and successful recovery from a future disastrous event, it is important to make sure one's law firm has a long-term strategy to manage a major disruption.

Considering how many businesses close after a chaotic rumble, having emergency directives spelled out in a contingency plan would ensure a firm's survival post disaster. Whether a firm is small or large, there should be a priority to review the company's contingency plan and to communicate the plan to staff.

Insurance Coverage

First concern for a typical practitioner should be insurance. Is there sufficient coverage? Often times, businesses are insurance dependent. But few business owners truly understand all the parameters of coverage. Most business owners rarely think it can happen to them so they are conservative when purchasing catastrophe protection. They depend on sales information and rarely challenge the presentation by conducting their own due diligence.

Studies show that a number of businesses are either inadequately insured or underinsured. What may be presented as simple is, in fact, complex; moreover, although the typical commercial insurance policy may cover some portions of the loss, the other parts may fall into dispute, and even get stuck in litigation.

Disaster Preparation

According to third generation public insurance adjuster Alan Kapilow, "When it comes to disaster, preparation overcomes fear and grief; this speeds up recovery."

Kapilow recalls a client who lost everything after a combined fire/water loss. "The woman was a successful entrepreneur and single parent to a special needs child. Her claim, landing in a landlord-tenant dispute, was only partially paid, resulting in her losing not only continued business, but her housing. She developed depression and ultimately ended up on welfare in a downtown hotel."

Supplies to Have While Waiting for Rescue:

- ✓ Water, water, water
- ✓ Personalized emergency backpack
- ✓ Whistle
- ✓ Extra pair of eyeglasses
- ✓ One month's supply of prescription meds
- ✓ Board games and great joke book
- ✓ New journal
- ✓ Small photo album
- ✓ An emergency radio
- ✓ Generator
- ✓ Peanut butter
- ✓ Canned foods (and opener)
- ✓ Sanitizer
- ✓ Extra t-shirts and socks
- ✓ Pepper spray

It is distressing to see a successful businessperson stumble into poverty months after a fire, water or earthquake incident. Why? Insufficient preparation. The combination of grief period, complicated process and having to deal with personal affairs is overwhelming. This is further convoluted if civil unrest or a citywide disaster occurs concurrently, the effects of which would be devastating, with a longer recovery time.

Contingency Plan

While most firms rely on business plans to guide their operations, little attention is given to the creation of a disaster manual. The disaster manual and its lifesaving drills are greatly overlooked. Fact is, most business plans do not contain a contingency plan. The time has come when a new office binder must be created to contain a firm's disaster recovery directives: who, what, when and where.

The objective of having a contingency plan is to be able to swiftly bounce back economically. Such a plan would outline steps to take for business to continue at least six months to one year post incident on autopilot. This entails putting together recovery steps, resources, supplies, designated manpower, etc.

A plan would detail the types of catastrophes that could stall the day-to-day operation of one's business. Such plan would be useful in a range of possible eruptions such as civil disturbance, floods, bombings, utility outings, myriad computer viruses and even disease. The ideal plan would take into consideration the possibility of other disasters being set off as a proximate result of the first.

Designations would be in place for those employees skilled and trained in certain areas of disaster relief or with certain backgrounds. Important too is succession of command within the company. When key decision makers are incapacitated a line-up of alternates can transition in a role of leadership without protest.

Most of all, the needs of ongoing communication would be outlined since local networks may not be reliable. The plan would identify alternative communication capabilities such as short-wave transmissions and other alternative technology so communication can flow to rescuers.

Disaster Management Consultants

A consulting firm which focuses on disaster management utilizes a team of professionals to assess and manage risk before, during and after a devastating event. The firm reviews and interprets insurance policies, performs hazards analysis, surveys property, drafts evacuation plan, videotapes contents, scans important documents, presents on-site disaster preparedness classes and

FEMA's 4-Step Emergency Management Guidelines*

Step 1
- Establish a planning team
- Form the team
- Establish authority
- Schedule budget

Step 2
- Analyze Capabilities and Hazards
- Review internal plans
- Perform an insurance review
- Conduct vulnerabilities

Step 3
- Develop the Plan
- Prepare emergency response procedures
- Establish an employee training schedule
- Coordinate

Step 4
- Implement the plan
- Integrate plan into company operations
- Conduct employee training
- Evaluate and modify plan

*See Federal Emergency Management Agency's Emergency Management Guide for Business & Industry

trains and prepares staff to comply with regulations.

A disaster management professional can assist in developing a post-disaster system, including a timeline. After the loss, it can assist in mitigating damages by assessing risk, organizing resources and monitoring. The skilled professional also serves as an advocate by advising, documenting, insulating and negotiating the claim.

Now is the time to review the company's strategy, thus ensuring that the firm will be on auto-pilot six months post disaster, while one recovers from the pursuing grief period and reconstruction delays which debilitates most business owners after a major loss.

Teresa Curry is principal partner of 1Relief Disaster Risk Management, a consulting firm focusing on business continuity. For a courtesy publication of "A Step-by-Step Approach to Emergency Planning, Response and Recovery for Companies of All Sizes," go to www.1Relief.vpweb.com.

Measuring Damages for Breach of Trust

By Mark J. Phillips, J.D., LL.M.
and Michael J. Phillips

When renowned contemporary artist Mark Rothko died in New York on February 25, 1970, he left behind two disinherited children, an estate consisting primarily of 798 valuable paintings, and an estate plan that would spawn years of litigation, *Estate of Rothko*, 43 N.Y.2d 305 (1977). It is a lesson that warns friends and family alike of the dangers of serving as trustee, and is illustrative to attorneys on the imposition and measure of damages for breach of trust.

In California, the numerous duties of a trustee are set forth in Probate Code §16000 through 16105, and the measure of damages for breach of a trustee's duty is set by Probate Code §16440(a). That section establishes the following separate methods for the assessment of damages, from which the court may select as appropriate under the circumstances: (1) any loss or depreciation in value of the trust estate resulting from the breach of trust, known as "date of sale" damages, with interest; (2) any profit made by the trustee through the breach of trust, known as "disgorgement" damages, with interest; and (3) any profit that would have accrued to the trust estate if the loss of profit is the result of the breach of trust, known as "appreciation" damages.

These alternatives derive from §§205 through 208 of the *Restatement (Second) of Trusts (1957)* which permit a judge to impose greater or lesser damages based on culpability. It is not so much a measure of the injury to the beneficiaries as it is a measure of the reprehensibility of the conduct of the trustee.

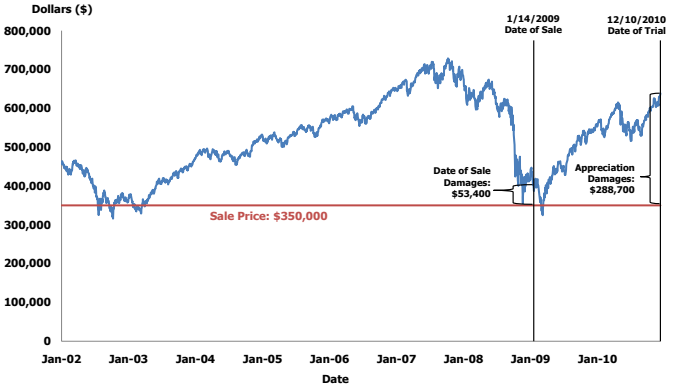
A breach of a trustee's duty of care under Probate Code §16040, as when a Trust asset is sold for less than its fair market value, has usually resulted in date of sale damages. In *Estate of Talbot*, 141 Cal.App.2d 309 (1956), Wells Fargo Bank, as trustee, sold shares of marketable securities at the insistence of a beneficiary, without following its standard procedures in pricing and account balancing. The failure to exercise independent judgment was viewed by the court as a breach of the prudent person standard, and thus a breach of the duty of care. Finding, however, that the breach of trust was one committed in good faith, the court held that the proper measure of damages was the actual loss on the sale, plus interest.

By contract, a trustee's breach of the duty of loyalty under Probate Code §16002(a) will result in application of appreciation damages. In *Estate of Anderson*, 149 Cal.App.3d 336 (1983), Bank of America as executor was harshly criticized by the court for a long list of acts of mismanagement, mostly surrounding the unnecessary sale of ranch land in Glenn County, California. A beneficiary sought appreciation damages despite court confirmation of the sale, subsequent approval of the bank's accounting, and expiration of the statute of limitations for appeal. The property having been sold in open court with an overbid, there were no date of sale damages.

As a result of the trustee's failure to disclose to the beneficiaries information it held on the income and estate tax consequences of the sale, the court found extrinsic fraud and a breach of the duty of loyalty, and assessed appreciation damages. The portion of the ranch sold was valued at the date of trial and the consideration received in the year of sale was subtracted for a computation of the net appreciation. Further, net loss of income was computed from the date of sale to the date of trial, utilizing a perceived constant value of the sold acreage for grazing purposes. Finally, the court offset net increases in taxes, fees, commissions and costs, for total net appreciation damages.

The difference between the measure of damages can be significant. In a hypothetical sale of 10,000 units of Vanguard Total Market Index Exchange Traded Fund (a proxy for the entire stock market) on January 14, 2009 for 15% less than its fair market value, with a trial two years later, date of sale damages would be $53,400, and appreciation damages would be $288,700, thus:

Appreciation Damages exceed Date of Sale Damages by $235,000



Source: Yahoo! Finance

Going back to *Rothko*, his will left everything to a charitable foundation, and named as executors his three closest friend: Bernard J. Reis, a Certified Public Accountant and law school graduate who had been Rothko's business and professional advisor; Theodoros Stamos, a fellow artist; and Morton Levine, a professor of Anthropology at Fordham University. In a process which the court called "hasty", the executors sold all 798 paintings to Marlborough Galleries, a pair of related corporations. All told, 100 paintings were sold for a total of $1,800,000, ultimately determined to be well less than their value, and the balance consigned at an unreasonably high commission rate of 50%.

Although disinherited, Rothko's children asserted their right to a statutory share in the Estate under New York law,

followed by an action against the trustees for breach of trust in the handling of the sale of Rothko's paintings. Following a non-jury trial of 89 days, the court found in favor of the Rothko children, holding Levine liable for damages of $6,464,880, and Reis, Stamos and Marlborough liable for the greater sum of $9,252,000.

The lower level of liability for Levine was based on his failure to exercise ordinary prudence in the sale of property for less than its fair market value, for which date of sale damages were appropriate. Reis and Stamos, however, were found to have engaged in self-dealing, as Reis was a director and officer of Marlborough, and Stamos was an unsuccessful artist out to curry favor with Marlborough. Where fiduciaries engage in self-dealing, a breach of their duty of loyalty, they are held to the higher measure of appreciation damages.

With a lack of statutory authority on point, the *Rothko* court similarly looked to the *Restatement*. Section 208 assesses appreciation damages against a trustee who sells property which the Trust calls on him to retain, and the court found that intentional act of bad faith to be analogous to a sale resulting from self-dealing. Noting that the reason for the differing measures of damages was policy oriented, the court stated: "The trustee may be held liable for appreciation damages if it was his or her duty to retain the property, the theory being that the beneficiaries are entitled to be placed in the same position they would have been in had the breach not consisted of a sale of property that should have been retained. The same rule should apply where the breach of trust consists of a serious conflict of interest – which is more than merely selling for too little."

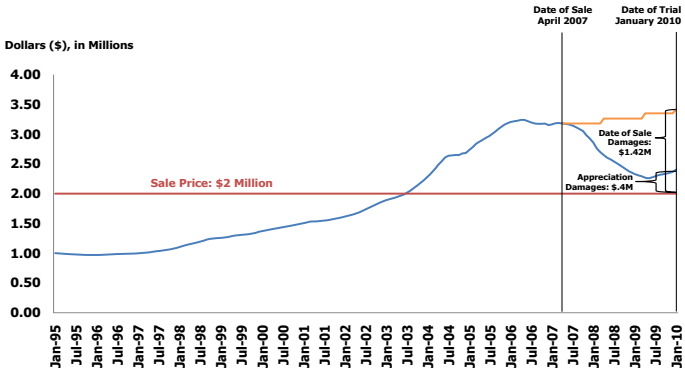
Dukeminier, Sitkoff & Lundgren summarize the fallout from *Rothko*. Reiss, Stamos and Levine were removed as executors of the estate; Marlborough Galleries paid most of the $9,200,000 damages assessed, but the executors were liable for the estate's legal fees and costs, with Reis filing for bankruptcy in 1978, and Stamos assigning his home to the estate; Marlborough owner Frank Lloyd was criminally convicted of tampering with the evidence in Rothko by altering gallery stock books; daughter Kate Rothko refused to pay the attorneys fees of $7,500,000 charged to her by her attorneys, eventually paying $2,600,000, still twice the hourly rate usually charged by the firm; and in 2007, a Rothko paintings sold at auction for more than $78,000,000, dwarfing the price paid by Marlborough for all of Rothko's works, *Wills, Trusts and Estates*, Aspen Publishers, 8th Edition, 2009.

Various types of trustee misconduct can result in the imposition of appreciation damages in California. Violation of the duty of loyalty of PC §16002(a) can be found in concealing information which would inform a beneficiary of mismanagement by the trustee, in selling an asset despite an express provision in the trust that the asset be retained, and in self-dealing.

In *Uzyel v. Kadisha*, 188 Cal.App.4th 866 (2010), an extensive opinion usually cited for the proposition that trustees must disgorge profits earned by them personally with assets improperly borrowed from the trust, even where equivalently large profits were earned for the benefit of the trust, the court held that appreciation damages are appropriate to remedy self-dealing by the trustee.

Prejudgment interest is assessed under PC §16440(a)(1), and accrues from the date of breach, *Redke v. Silver Trust*, 6 C3d 94 (1971). That can have the effect of closing the gap between date of sale and appreciation damages. In the same hypothetical sale of Vanguard units, the difference between the two measures is reduced from $235,000 to $228,000, as follows:

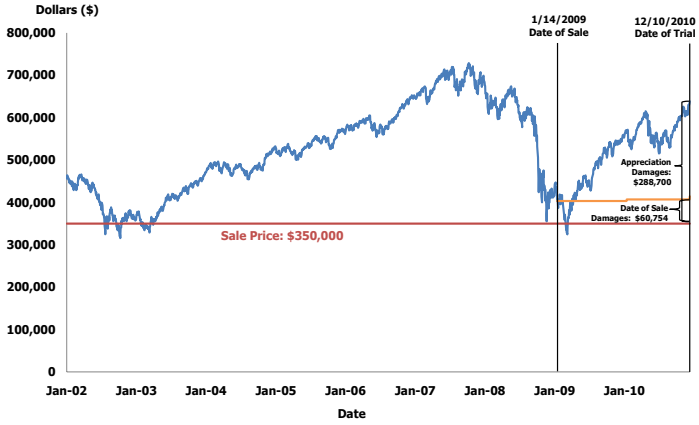
With interest, Date of Sale Damages exceed Appreciation Damages by $1 Million



Source: S&P/Case-Shiller Home Price Tiered Index

In fact, in a declining market, date of sale damages plus prejudgment interest can even exceed appreciation damages. In recent years, securities have increased in value while real estate has not. In the hypothetical sale of a residence sold by a self-dealing trustee for $2,000,000 in April of 2007 when its value was $3,180,000, over a period of three years prior to trial, date of sale damages would exceed appreciation damages by more than $1,000,000, as follows:

With interest, Appreciation Damages exceed Date of Sale Damages by $228,000



Source: Yahoo! Finance

In light of the daunting evidentiary task of proving bad faith and self-dealing, it may profit a litigant to undertake a pre-litigation evaluation of damages and forego the burden of proving up appreciation damages in a declining market.

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Enforcing Judgments Against Individuals Shielding Assets

BY MATTHEW C. MICKELSON

WHEN A CASE ENDS IN A judgment against a party, the unsophisticated creditor (or naive attorney) may think the matter is over, and that the only thing left to do is to collect the money due from the judgment debtor. But anyone with some experience in the judgment enforcement field knows that an entire new phase of litigation may be about to begin – the struggle to enforce the judgment if the debtor is resistant or knowledgeable about how to avoid his or her debts.

Although it is the case that some debtors are legitimately broke, others who claim to be insolvent reveal through their lifestyle and spending habits that they possess or control money that the judgment creditor should have the right to seize. This article will focus on the latter kind of debtor: one who on paper appears penniless, but who in reality controls assets that are being used to meet the debtor's personal expenses.

There are various ways that recalcitrant judgment debtors hide their assets from enforcement. They may transfer assets to insiders or trusted relatives, or place them out of state or in another country where enforcement efforts will be difficult. But the law has adapted to these tactics, and has various remedies (fraudulent transfer actions, turnover orders) that can be used to defeat such schemes.

There is, however, one maneuver that is increasingly being used by judgment debtors who desire to shield their assets from creditors – the establishment of a corporation or limited liability company which runs the debtor's business and pays for all of his or her expenses. Because that entity isn't the judgment debtor, enforcement can't be had against it. Right now, our legal system is ill equipped to defeat such a scheme. But perhaps knowledge of the issue can assist creditors and their attorneys in fashioning remedies that may meet court approval and function practically to enforce judgments against such debtors.

At first blush, it might seem that fashioning a remedy for the situation described above would be simple. Can't the court simply find that the corporation or LLC is the "alter ego" of the judgment debtor, and amend the judgment accordingly to add it as a judgment debtor? The answer is no. This option is foreclosed by the recent case of *Postal Instant Press, Inc. v. Kaswa Corp.* (2008) 162 Cal.App.4th 1510.

The *Postal Instant Press* court repudiated the practice of what it called "outside reverse piercing," by which it meant a judgment creditor's request for a post-judgment court order amending the judgment to add an individual defendant's entity as an additional judgment debtor. The court determined that outside reverse piercing was unjustified as a matter of law, and that a creditor's remedy in such a situation is to levy upon and force a sale of the judgment debtor's shares in the corporation in possession of the sought-after assets, which can then be purchased at auction by the creditor (who will then become the owner of the corporation and of all it owns). The *Postal Instant Press* court stated that in the alternative, a judgment creditor had the option of relying upon traditional fraudulent conveyance law to collect assets illegally transferred from the judgment debtor to the entity. (*Id.* at p. 1522-1523)

The options suggested by the *Postal Instant Press* court – levying upon the judgment debtor's shares and/or employing the procedures available to avoid fraudulent transfers – may indeed be sufficient in some circumstances. But the court greatly underestimated the obstacles placed in a creditor's path by its ruling and the inadequacy of its suggested remedies. The option of selling shares won't work if the debtor owns a limited liability company, especially if the LLC's operating agreement prohibits the transfer of a member's interest.

Moreover, many judgment debtors who create "shell" corporations to hold their assets never issue shares in the first place, so there is nothing to be levied upon. Finally, fraudulent conveyance law offers no remedy where nothing has been transferred to the entity from the debtor except for his time, labor and energy – if the entity is operating on a day-to-day basis as a going concern, making money and paying for the debtor's housing, food, transportation and everything else, a fraudulent conveyance action against the entity will not lie. This happens more often than one might think, and it highlights the difficulty that our state's enforcement of judgment law encounters

when faced with the debtor "shell entity" problem.

What, then, is to be done? There are three practical options which may serve a judgment creditor well when faced with a debtor's shell entity holding substantially all of his assets:

1. Serve a Levy on the Entity

A judgment creditor can serve a levy upon an account receivable or general intangible payment right due to the judgment debtor. (Code of Civ. Proc. §§700.170(a), 680.130, 680.210) The levy will compel the third party served with it to direct any payments due to the judgment debtor to the sheriff, who will pay those monies to the creditor. (*Id.* at §701.010(b)) If the third party does not pay, it can be made personally liable to pay that amount through a motion in the trial court. (*Id.* at §701.020)

Accordingly, a judgment creditor could serve a levy on the shell entity seeking payment of any monies being made to the judgment debtor. If the entity fails to pay out, a motion can be made to make the entity directly liable for the amounts it paid to the debtor instead of the sheriff. Enforcement against the entity can then proceed in the normal fashion.

There are problems with this approach. First, a judgment debtor's take of money from the entity may not be considered a right to payment subject to levy; many debtors claim these are simply "loans" that will be paid back later. Moreover, payments made directly from the entity to third parties for goods and services consumed by the judgment debtor (i.e., payments to stories for food, to an apartment for rent, or to lease a car) cannot be intercepted by levy. Because of these drawbacks, another approach, securing an assignment order, may be the better option.

2. Assignment Order

A judgment creditor on motion can apply to the court for an assignment order that assigns a judgment debtor's rights to payment to the judgment creditor. (*Id.* at §708.510) All or part of a right to payment can be assigned, including but not limited to general intangible rights to payment and accounts receivable. Once it is served upon a third party that owes money to the judgment debtor, the assignment order creates an obligation on that party to pay money to the creditor or become personally liable if that money is not paid. (*Id.* at §708.540, comment) More severely, either the judgment debtor or the entity paying him that fails to obey the assignment order may be held in contempt of court. (*Id.* at §1209(a)(5))

The assignment order route is preferable where a debtor is using a shell entity to pay all of his or her expenses directly to third parties. The judgment creditor can request that the order be far broader than a typical levy, prohibiting the entity from paying any money or thing of value to the judgment debtor, including loans and monies paid to third parties for goods and services consumed by the debtor. If violated, the order can then be used to attach liability to the entity for the money transferred, or alternately the debtor can be charged with contempt of court and imprisoned unless the money received is paid to the judgment creditor. That is a powerful incentive to the debtor to stop the shenanigans and face the reality of the judgment.

3. Outside Reverse Piercing Still Possible?

If all else fails, consider that it may still be possible to get a court to order that the debtor's business is liable for the judgment, despite the holding of *Postal Instant Press*. As noted above, that case assumed that the outside reverse piercing remedy was unnecessary because a judgment creditor could seize and sell the judgment debtor's shares and/or use fraudulent transfer law to get at the entities' assets. But if the judgment creditor encounters an LLC with non-transferrable interests, or a corporation which has issued no shares, or a going-concern entity which has not taken anything from the debtor except his or her labor and is paying out its assets to the debtor in "loans", it may be possible to convince a trial court that *Postal Instant Press* does not institute a blanket prohibition against outside reverse piercing, and that in extreme situations equity demands that the debtor's entity become liable for the judgment.

A review of non-published appellate court holdings since *Postal Instant Press* suggests that this procedure may be fruitful; of course, these cases may not be cited as authority contravening *Postal Instant Press*, but they do suggest that when faced with flagrant debtor behavior, courts may come down on the side of the creditor and allow collection against the debtor's shell entity.

Matthew C. Mickelson *is a sole practitioner in Encino who specializes in post-judgment enforcement, general civil litigation and civil appeals. He can be contacted at mattmickelson@bizla.rr.com or (818) 382-3360. His website is www.mickelsonlegal.com.*

Valley Community Legal Foundation

The Block Party is Back!

HON. MICHAEL R. HOFF, RET.
VCLF President

JUNE 11, 2011 IS RIGHT AROUND THE CORNER and it is a date that should be of importance to all SFVBA members. The Valley Community Legal Foundation is holding its annual gala dinner at CBS Studio Center in Studio City. The theme of 2011's bash is "Block Party."

The Foundation is the 501(c)(3) charity founded by the San Fernando Valley Bar Association and it needs the support of all lawyers working or residing in the Valley. Attending the gala is an opportunity for members to support their charity, have a good time and contribute to the Valley's less fortunate.

> "Attending the gala is an opportunity for members to support their charity, have a good time and contribute to the Valley's less fortunate."

All of the money raised by the gala supports the causes near and dear to the Bar's heart. In the past, the Foundation was a major mover and contributor to the children's waiting rooms in the Van Nuys and San Fernando courthouses. The Foundation will again be awarding a number of grants and scholarships to needy and worthy causes.

This year, the Foundation is directing much of its efforts to the CASA program of the Juvenile Division of the Los Angeles Superior Court. CASA is the acronym for Court Appointed Special Advocate. These dedicated volunteers help the unfortunate children that are the victims of abuse or otherwise come under the jurisdiction of Juvenile Court. CASA volunteers help the children and SFVBA members can join with the Foundation in helping the volunteers. Special recognition will be given to the CASA program at the gala.

Supervising Judge of the Juvenile Court, Michael Nash, will also be honored for his years of dedicated work with children that find themselves in trouble. The Honorable Sandy Kriegler is scheduled to present the award to Judge Nash. Perhaps, gala attendees will be regaled with a few tales from when the two of them were assigned to the Hollywood Court. Interesting things happen in Hollywood.

Also, California Supreme Court Associate Justice Armand Arabian (Ret) will receive a lifetime achievement award. Come and visit with Justice Arabian and have fun at the block party. The Foundation will also honor Lions Gate for its contribution to the legal field by producing the hot new film, *Lincoln Lawyer*, starring actor Matthew McConaughey. And Los Angeles County Lee Baca will receive the Hero in Law Enforcement Award.

All attending the Block Party will be entertained by some very nice music, a silent auction and a live auction. Marty Ingels and Shirley Jones will again act as co-emcees. Expect some laughs with these two outstanding veteran members of the entertainment world and the community. Councilmember Dennis Zine will be in attendance to add his humor, talents and enthusiasm to the evening.

Get that checkbook out right now and order your tickets through the Bar's office. This year, the VCLF Board of Directors has decided to offer a new option regarding ticket prices. The cost of an individual ticket will be $150, but for a new attorney who has been in practice less than ten years, the price is $100, with the option to purchase an additional ticket at the reduced rate.

Hon. Michael R. Hoff, Ret. *can be contacted at mrhoff2@verizon.net.*

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Santa Clarita Valley Bar Association

The Healthy Lawyer

PAULETTE GHARIBIAN
SCVBA President

IN THE BUSY LIFE AS A practicing lawyer, feelings of exhaustion, the inability to focus and the terms "overwhelmed" and "depressed" are common descriptive words. Some excuse these feelings as the nature of the profession, but the smart attorneys have found a way to cope with their stress in a healthy manner by adopting and maintaining a healthy lifestyle alongside their professional persona.

The constant running pace attorneys follow makes it difficult, if not impossible, to find a fulfilling balance between being a successful professional, while at the same time maintaining healthy and meaningful relationships with loved ones. Attorneys that have made it a priority to get the proper nutrition and exercise regularly can more easily concentrate on the tasks at hand, have more energy to face the day, and overall have a better outlet for their stress. As a result, there is a decrease in health problems, which leads to less reason to call out sick and therefore, a more successful practice.

Stress has devastating effects, including increasing risks of drug and/or alcohol abuse. In his 1997 book "Stress Management for Lawyers," Amiram Elwork reported that a survey of 801 Washington state lawyers "found alarming rates of reported depression and substance abuse," with 19 percent suffering from depression and 18 percent considered problem drinkers.

No doubt it is a challenge to be a good attorney and a dedicated family member, while at the same time tending to one's own needs as an individual. Effects of a stressful and fast-paced lifestyle can be seen later, but it is now that attorneys should prioritize what is most important and spread their time accordingly. It is never too late to shift onto the right path of lifetime health. Should an attorney stress over this? The answer is no. Finding a balance of a healthy diet and an exercise regimen has proven to combat stress.

Virtually any form of exercise can act as a stress reliever. Exercise increases one's overall health and sense of well being, as it pumps up endorphins, is "meditation in motion", and improves one's mood at the same time. Some of the top researchers of the effects of aging on the brain have found that when people exercise, it keeps their brain producing more alpha brain waves. The alpha rhythm is associated with the ability to stay calm under pressure.

This past April, the Santa Clarita Valley Bar Association hosted an exciting presentation at the beautiful Tournament Player's Club in Valencia on the topic of substance abuse. Attendees earned one hour of CLE in the area of substance abuse. To attend future SCVBA events, visit www.scvbar.org or call (661) 414-7123.

For more information, please visit www.scvbar.org.

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We welcome the following new members who joined the SFVBA in March 2011:

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Calendar

ANNUAL NEW LAWYERS NETWORKING MIXER

Meet Other Young & Emerging Professionals

Wednesday, May 25, 2011

6:30 PM – 8:30 PM

Sportsmen's Lodge

Studio City

Free to SFVBA New Lawyers!

Complimentary Glass of Wine and Free Appetizers

RSVP to events@sfvba.org.

The San Fernando Valley Bar Association is a State Bar of California MCLE approved provider. To register for an event listed on this page, please contact Linda at (818) 227-0490, ext. 105 or events@sfvba.org.

Probate & Estate Planning Section
Court Update

MAY 10
12:00 NOON
MONTEREY CLUBHOUSE AT ENCINO
ENCINO

Presiding Judge Mitchell Beckloff and Judge Reva Goetz will discuss the latest happenings at the Probate Court.

MEMBERS
$35 prepaid
$45 at the door

NON-MEMBERS
$45 prepaid
$55 at the door

1 MCLE HOUR

Workers' Compensation Section

MAY 18
12:00 NOON
MONTEREY CLUBHOUSE AT ENCINO
ENCINO

MEMBERS
$35 prepaid
$45 at the door

NON-MEMBERS
$45 prepaid
$55 at the door

1 MCLE HOUR

Business Law, Real Property& Bankruptcy Section and Litigation Section
Settlement Negotiations: When Does It Get To Be Extortion?

MAY 19
6:00 PM
SFVBA CONFERENCE ROOM
WOODLAND HILLS

Attorney Carol Newman will discuss the intricacies of settlement negotiations and how to avoid crossing the line.

MEMBERS
$35 prepaid
$45 at the door

NON-MEMBERS
$45 prepaid
$55 at the door

1 MCLE HOUR (Legal Ethics)

Santa Clarita Valley Bar Association
Networking Mixer

MAY 19
6:00 PM
SALT CREEK GRILLE
VALENCIA

RSVP to (661) 414-7123 or rsvp@scvbar.org.

MEMBERS
FREE

NON-MEMBERS
$20

Includes one drink and unlimited appetizers!

Family Law Section
Evidence — Part II

MAY 23
5:30 PM
MONTEREY CLUBHOUSE AT ENCINO
ENCINO

Because session one was such a hit, Judges Michael Convey and Christine Ewell and attorney Dan Davisson will continue the discussion regarding what you need to know about evidence.

MEMBERS
$45 prepaid
$55 at the door

NON-MEMBERS
$55 prepaid
$65 at the door

1 MCLE HOUR

Small Firm & Sole Practitioner Section
Understanding Financial Statements and Those Who Use Them

MAY 25
12:00 NOON
SFVBA CONFERENCE ROOM
WOODLAND HILLS

Most litigation involves the use of financial information that discloses assets, debt, income and expenses. Chris Hamilton of Arxis Financial provides guidance on knowing what financial information to request, how to get that information and how to interpret it. Learn the tricks and traps associated with reading financial disclosures and when do you need to call in a financial expert.

Free to SFVBA Members
1 MCLE HOUR

COMING IN JUNE

San Fernando Valley Bar Association

Member Appreciation Ice Cream Social & 85th Birthday Party

Tuesday, June 14, 2011

5:00 PM TO 6:30 PM

- Ice cream Sundaes and Cupcakes
- Raffle for iPad and Other Great Prizes
- Special Recognition for SFVBA Volunteers and Senior Members
- Member Benefits Providers' Booths

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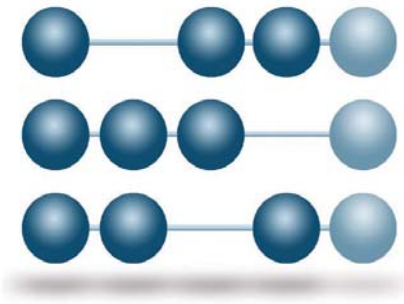

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