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DECEMBER 2018 • \$5

A Publication of the San Fernando Valley Bar Association

A Cut Above: The Elite Study Group



**Probate:
The Fundamentals**

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Valley Lawyer is published monthly. Articles, announcements, and advertisements are due by the first day of the month prior to the publication date. The articles in Valley Lawyer are written for general interest and are not meant to be relied upon as a substitute for independent research and independent verification of accuracy.

Printing Southwest Offset Printing

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For Those in Need

I HAD INITIALLY PLANNED TO address the holiday sentiment we experience this month in this issue. We gather with people we love, reflect on our year, resolve to do better, and appreciate what we have in our lives. Charitable donations surge as our generous and kindred spirit is emboldened. But the calendar should not dictate what we do and limit us to the holiday season. Non-profit organizations require our support throughout the year to sustain their efforts.

For our own health and quality of life, we need to take time off to enjoy the people in our lives. We need to remain engaged to support and nourish each other no matter what the time of year.

This sentiment became immensely clear recently. On October 27, eleven people were killed during Shabbat morning services at the Tree of Life Synagogue in Pittsburgh. All communities, regardless of location or affiliation, shared in the pain and resolved to stand together. This included our Valley, where the Jewish community is ingrained in our collective culture and family.

Then tragedy struck here just days later on November 7, when thirteen vibrant people, many young adults with enormous potential and drive to improve our world, were killed in their safe place.

There are no words to adequately describe the effect and unfairness of that loss. Sadly, it was compounded as loved ones could barely process

what happened due to the immediate wildfires.

As this issue goes to publication, the Woolsey Fire has destroyed approximately 1,500 structures, with many more damaged. We need to recognize that behind each of these numbers is an individual person and story. I admire the resilience of those who lost their homes, who remain grateful to be safe and assure us that property can be replaced. But I also want to acknowledge the magnitude of your loss and the strain it causes. It was not just a house—it was a home. It was the sanctuary you returned to after a long day; the place you gathered, fed and sheltered loved ones; where every decoration and furnishing reflected who you are; and where every stain, nick, and broken object represented the life that you and your family created there.

To those who had to evacuate, I want to acknowledge that it was not a mere inconvenience, but a dreaded alarm that all could be lost, the urgency to protect your family, and the deprivation of any respite until you knew it was all okay.

YI SUN KIM
SFVBA President



ykim@greenbass.com

Thank you to the firefighters, law enforcement, doctors, nurses, businesses providing food and services, neighbors helping each other protect your homes, family and friends opening their homes, and good people just being sympathetic and helping in any way you can. You have shown incredible strength, selflessness and duty that makes me incredibly proud and grateful to be part of this community.

Before these events, I set out to encourage our members to support our community throughout the year. Instead, being inspired by how all of you have helped each other, I now ask what we can do for you. It is a call to action on the SFVBA to support you, our members and our community.

We have opened our offices for those who need to use them, and we are now working with local organizations and leaders to find the most helpful and timely services we can provide.

We are determined to be here for you as much as you have been there for each other. 🏠

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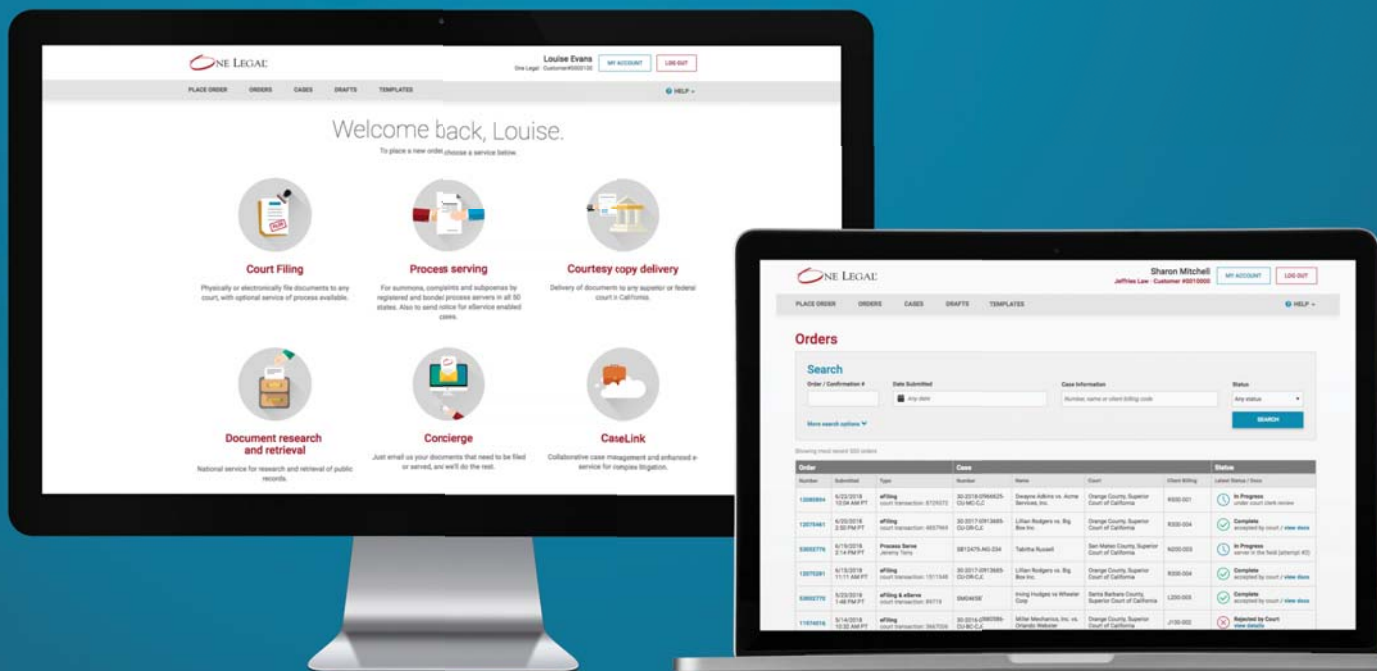
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A Beginning, Progress and Success

MICHAEL D. WHITE
SFVBA Editor



michael@sfvba.org

ANYONE WHO'S READ ANY ONE OF MY columns over the past couple of years knows that I'm a bit of a sucker for a good quotation.

In assembling the bits and pieces of this month's cover story, I came across one that, I think, clearly defines the core reason for being of the Elite Study Group (ESG), a 20-member assemblage of family lawyers who have gathered together monthly for the past 35 years to mentor one another and hone their legal craft.

The quotation is from industrialist Henry Ford, who revolutionized industry worldwide with his advances in franchising and mass production. Well into his career, he once wrote that "coming together is a beginning; keeping together is progress; working together is success."

The ESG came together with the purpose of giving its members the opportunity to learn from one another, a beginning. They've kept it together and grown over the past 35 years, making it the oldest group of its kind in the Valley, that's progress; and, it holds true to its original standards and goals, that's success.

"The group has improved over the years in that we have more minds," says attorney Don Zelinsky, a Past President of the SFVBA and one of the original members

of the ESG. "We have more intelligent attorneys working with us and more people to bounce things off of. We're like a family."

In a previous life, Zelinsky served in the U.S. Navy as a hospital corpsman with a U.S. Marine infantry unit. I asked him if working as a corpsman gave him a different perspective on dealing with clients suffering through the pain of a divorce, child custody and 'who gets what.'

He paused and responded: "It's helped some to be more sensitive when I listen to people's pain, but," he

added with a laugh, "One thing, I haven't had to give anybody an injection of any kind."

We hope you'll benefit from Shep Zebberman's article on a sad, timely topic: bullying, as well as Valerie Ibe's piece on copyright infringement and James Andrade's MCLE on "The Fundamentals of Probate."

Also, in this issue, we introduce our new Member Focus section spotlighting individual SFVBA members. We've already added the section to our website and hope it will put a face on the 2,000-member organization.

Sincere best wishes for a Merry Christmas, a Happy Hanukkah and a New Year filled, as Robin Leach used to say, with "green lights, blue skies and champagne dreams." 🍷

“

The ESG came together with the purpose of giving its members the opportunity to learn from one another.”

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SUN	MON	TUE	WED	THU	FRI	SAT
						1
2  Happy Hanukkah	3	4	5	6 Membership & Marketing Committee 6:00 PM SfVBA OFFICES	7	8 Blanket the Homeless and ARS Legal Clinic 8:30 AM LA FAMILY HOUSING NORTH HOLLYWOOD  See page 31
9	10 Probate & Estate Planning Section Crossover Issues in Estate Planning and Family Law 12:00 NOON MONTEREY AT ENCINO RESTAURANT What are the issues of concern for both estate planning attorneys as well as family law practitioners? Christina E. Djordjevich and Eric Tokuyama will examine both shared concerns and particular variances. (1 MCLE Hour)	11 Investing 101 and Tax Free Income 6:00 PM SfVBA OFFICES Sponsored by Morgan Stanley  ALLIANCEBERNSTEIN Ken Brozki and Rances Sainz from the Brozki Group at Morgan Stanley and Bryan Pacana from Alliance Bernstein will discuss how best to keep calm and diversify your accounts. Free to all members. (1 MCLE Hour)	12	13	14 Bankruptcy Law Section Recent Supreme Court Cases 12:00 NOON SfVBA OFFICES M. Jonathan Hayes and Judge Alan M. Ahart lead their annual seminar. Approved for Bankruptcy Law Legal Specialization. (1.25 MCLE Hours)	15
 <h2>HOLIDAY OPEN HOUSE</h2> <p>December 11, 2018 5:30 p.m.</p> <p>SfVBA Offices See page 38</p>						
16	17 ARS Committee 6:00 PM SfVBA OFFICES	18	19	20	21	22
23	24 	25	26  KWANZAA	27	28	29
30	31					

SUN	MON	TUE	WED	THU	FRI	SAT
		1  2019 HAPPY NEW YEAR! SFVBA OFFICES CLOSED	2  We are moving! 20750 VENTURA BLVD. SUITE 140 WOODLAND HILLS CA 91364	3  Membership & Marketing Committee 6:00 PM SFVBA OFFICES	4	5
6  VBN 5:30 PM VBN is dedicated to offering organized, high quality networking for SFVBA members.	7  Probate & Estate Planning Section Hot Topics in Accounting and Bad Faith Objections 12:00 NOON MONTEREY AT ENCINO RESTAURANT Blake A. Rummel will address key accounting issues and bad faith objections. (1 MCLE Hour) Board of Trustees 6:00 PM SFVBA OFFICES	8	9	10	11	12
13	14	15  ARS Committee 6:00 PM SFVBA OFFICES	 SFVBA 22ND ANNUAL MCLE MARATHON 01.18.19 01.19.19 Braemar Country Club 4001 Reseda Blvd Tarzana See page 21			
20	21  Martin Luther King Day SFVBA OFFICES CLOSED	22  Editorial Committee 12:00 NOON SFVBA OFFICES				
27	28	29	30	31		



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

Probate: The Fundamentals

By James K. Andrade

A probate is used to transfer assets that the decedent holds in his or her name upon their death with no other way to transfer the asset. Many estate planning professionals suggest avoiding probate so that the assets can be transferred outside of court procedures and statutory fees can be avoided.



THIS ARTICLE PROVIDES A WORKING background on probate fundamentals. The topics are discussed generally without going into specific details for areas or issues that can arise in the filing, administration, and distribution of a probate.

Reason for Probate

If the decedent was the only one authorized to make any transfers of the property in the decedent's estate and the total value of all of the decedent's property is valued above \$150,000.00, then there may be no other way to transfer these assets without opening a probate.

A decedent's estate is the property, such as bank accounts or real property, held by the person at the time of their death.

Petition for Probate

A probate administration is opened once someone files a petition with the court for an order appointing them to be in charge of the estate and its assets. The petition for probate is filed when the decedent dies with or without a will.

When the individual dies without a will (i.e. intestate), then the decedent's assets should ultimately be distributed pursuant to the Probate Code. The person petitioning the court for the order is usually an heir. If the decedent died with a will (i.e. testate), then the assets will be distributed pursuant to the terms of that will, and the person petitioning the court for the order is usually the named Executor, Executrix, or a beneficiary. Ultimately, the person that is appointed as Administrator (if no will) or Executor/ Executrix (if a will exists) is the personal representative of the estate.¹

Contents of a Petition

The petition to be appointed as a personal representative should include the name of the decedent, the date and place of death, the decedent's residence at time of death, the name, age, address, and relation of each heir, the character of the property in the estate, the estimated value of the property in the estate and the name of the petitioner. If the decedent had a will, a copy of the will should be attached to the petition.²

Form DE-111 is a mandatory form Petition for Probate that has been adopted by the Judicial Council of California.

IAEA Powers

The Independent Administration of Estates Act (IAEA) allows the personal representative to take certain actions without supervision of the court. A request for the powers laid-out under the Act should be included in the initial petition for appointment by the personal representative.³

The personal representative can ask for full or limited IAEA powers. The main difference between full and limited authority is that full authority lets the personal representative sell real property or take out a loan secured by the real property in the estate without court approval. Limited authority means the personal representative will have to petition the court for an order approving the sale of the property.⁴ At the hearing, the sale price of the property is then subject to potential over-bidders.

Hearing and Order

The Los Angeles Superior Court now requires efilings for all probate court filings (there may be some exceptions for in pro per filings). Once the petition is efiled and accepted, the attorney will receive the hearing date for the petition stamped on the conformed copy of the petition. The proposed personal representative should then provide notice to the required heirs and/or beneficiaries.⁵ A Judicial Council Form DE-121 is a mandatory Notice of Petition to Administer Estate document.

On the date of the hearing, the court will review the petition and make its determination as to the personal representative. If any other interested party objects verbally at the hearing, then the court will likely continue the hearing and allow for an objection in writing to be filed.⁶ Once the objection is filed, the court will ultimately make its decision at the hearing.

Once the court orders and appoints a personal representative, the personal representative will still need to be bonded and letters of administration will need to be issued before the personal representative can begin administering the estate.

A Bond is Required...Usually

Unless a will waives a bond or all beneficiaries waive the bond requirement in writing, a bond is generally required



James K. Andrade, an attorney at The Burbank Firm, L.C., practices estate planning, probate and trust administration, and general advising to mid-sized businesses. He can be reached at jandrade@theburbankfirm.com.




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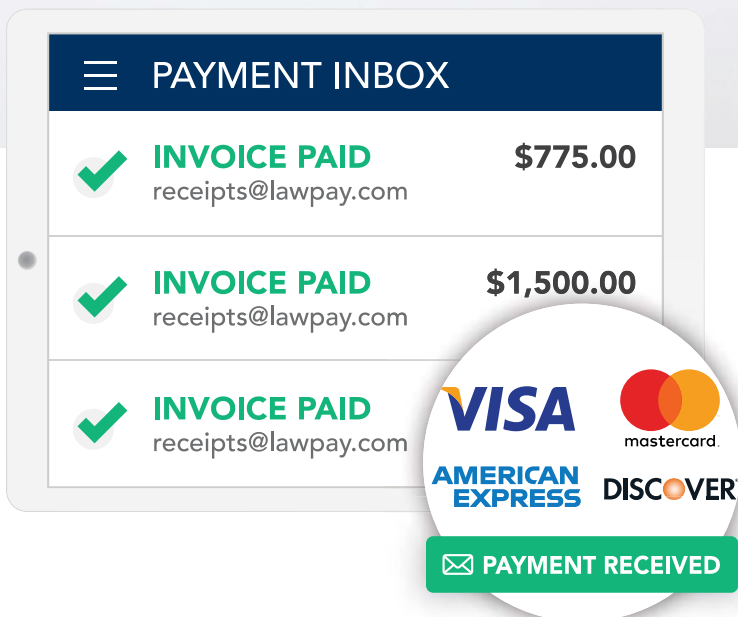
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by the court before letters of administration are issued to the personal representative.

The bond is for the beneficiaries' or heirs' benefit and provides a source of recovery if the personal representative fails to execute his or her duties pursuant to the law.⁷

Letters of Administration

The personal representative has no powers to administer the estate until the letters of administration have become effective by the court. The bond is required prior to issuance of the letters. Certain persons are not allowed to be appointed—minors, conservatees, non-U.S. residents, and business partners, for example.

The personal representative will be required to submit a Judicial Council Form (DE-147) to show that they acknowledge their duties and liabilities.⁸ The letters are then signed by the clerk with the seal of the court. The personal representative can then use the order and letters to administer the estate.

General Administration of the Estate

Once someone is appointed as personal representative of a decedent's estate, the personal representative should begin to collect the assets of the estate and determine potential creditors or debts of the estate. A good way for the personal representative to begin to collect assets and debts is to forward the decedent's mail to the personal representative's address. This will allow the personal representative to review statements and bills that are addressed to the decedent.

The personal representative should close all open checking accounts and cancel the decedent's credit cards. Any funds from the closed accounts should be deposited in the estate account, discussed below. Also, the personal representative should contact the Social Security Administration to have Social Security payments to the decedent discontinued.

The personal representative should then obtain a federal taxpayer identification number for the estate, go to the bank with a certified copy of the letters and order, and open an estate bank account. Any income that comes into the estate or any checks that are received should be deposited into that account. All expenses of the estate should be paid from that account. The personal representative should pay expenses by checks, and not cash, to avoid accounting problems in the future.

The personal representative will have to determine the financial assets owned by the decedent. If the estate

owns stocks, bonds, ETFs, or other financial assets, the financial institution may require changing the name on the account from the decedent to the estate, prior to any transaction (such as distribution or liquidation). Most financial institutions have the forms that need to be signed and notarized to transfer these assets. The process can be time consuming for the personal representative. It may be beneficial for the personal representative to liquidate stocks to avoid market risk.

Depending on the IAEA powers, the personal representative can enter listing agreements and sale agreements for the real property (after proper notice is given and published).

Inventory and Appraisal

Four months after the letters of administration are issued, the personal representative is required to file an inventory of the decedent's property in the estate and an appraisal of the property in the inventory.

If the personal representative later finds additional property owned by the decedent, then the personal representative is required to file a supplemental inventory and appraisal listing the newly found property. If a personal representative fails to file the inventory and appraisal, then a beneficiary or other interested person can compel the personal representative to file the inventory and appraisal, and the court may also remove the personal representative from their duties and can even impose liability for injury to the estate.⁹

“Once someone is appointed as personal representative of a decedent's estate, he or she should begin to collect the assets of the estate and determine potential creditors or debts of the estate.”

Creditor's Claims Against the Estate

The entirety of the creditor's claims procedure against an estate is beyond the scope of this article. However, generally, known creditors should be given notice of the opening of a probate administration for a decedent. Should the creditors make a claim, the personal representative should then determine the validity of the claim and the estate's ability to resolve the claim. They will then either reject or accept the claim amount.

If accepted, the personal representative should pay the creditor. If rejected, the personal representative should file a notice of rejection and serve it on the creditor. The creditor will then need to determine its next course of action, including a potential lawsuit against the estate to prove its claim. Generally, a creditor that received a rejection of its claim will have 90 days to initiate a lawsuit based on its rejected claim from the estate. This process

establishes a statute of limitations for both making a creditor's claim and then filing a lawsuit if the claim is rejected by the estate.¹⁰

Expenses of Administration

A personal representative can be reimbursed for necessary expenses of the administration of the estate.¹¹ Such expenses can include filing fees, attorney's fees, and the personal representative's fees. The maximum compensation for the attorney and personal representative are set by statute as follows:

- Four percent on the first \$100,000.00.
- Three percent on the next \$100,000.00.
- Two percent on the next \$800,000.00.
- One percent on the next \$9,000,000.00.
- One-half of 1 percent on the next \$15,000,000.00.
- For all amounts above \$25,000,000.00, a reasonable amount to be determined by the court.¹²

Extraordinary fees can be awarded on petition to the court for extraordinary services by the attorney. The court may allow additional compensation in the amount the court determines is just and reasonable.¹³ Extraordinary attorney compensation can be awarded for services in connection with a sale of property, services to secure a loan, coordination of a probate administration outside of the state, and other services.¹⁴

Petition for Final Distribution

A petition for final distribution or a status report, should be filed by the personal representative within one year after the letters were issued or within 18 months after letters were issued for an estate that requires a federal estate tax return.¹⁵

The final petition shows an accounting for the estate and the proposed distribution of the estate assets, if any, to the beneficiaries or heirs. The accounting shows the starting balance, all income that has been received, all expenses that have been paid, and the resulting balance of the estate.¹⁶

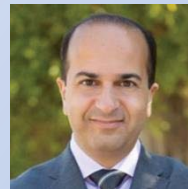
This information gives the heirs/beneficiaries and the court the opportunity to be satisfied that all the assets are accounted for in the estate.

Receipt and Discharge

Once the beneficiaries have received their share of the inheritance pursuant to the court order for distribution, the personal representative should file a petition for discharge. The petition should include receipts from each beneficiary that received a share from the estate. The receipt(s) should be signed by each beneficiary.



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This document lets the court know that each beneficiary received the share that the court ordered to be distributed to each specific beneficiary. If the court is satisfied, the court will order that the personal representative is discharged and released from liability for actions after the date of the order. Judicial Form DE-295/GC-395 should be used for the ex parte petition.


Other Issues

Myriad other issues additional to those discussed above can arise in the administration of a probate. In most cases, the court's order may be required for the following:

- Approval of notice of proposed action.
- Sale of real property (limited authority powers).
- Preliminary distribution.
- Determination of persons entitled to distribution (omitted spouses, omitted children, heirs that have been determined).
- Business interests ownership.
- Probate homesteads.
- Recovery of estate property held by another.

Of course, the above is a non-exhaustive list of additional probate issues that can arise that may require the court's attention.

Avoidance of Probate Court

A probate is used to transfer assets that the decedent holds in his or her name upon their death with no other way to transfer the asset. Many estate planning professionals suggest avoiding probate so that the assets can be transferred outside of court procedures and statutory fees can be avoided. The most common and simple ways to avoid probate include, but are not limited to, holding assets in trust, having multiple party accounts, recording joint tenancy deeds for real property, and holding accounts with payable on death designations. 

¹ Prob. Code §§8000-8001.

² Prob. Code §8002.

³ Prob. Code §10400 et seq.

⁴ Prob. Code §§10402-10403.

⁵ Prob. Code §8005.

⁶ Prob. Code §§8004-8006.

⁷ Prob. Code §§8480-8488.

⁸ Prob. Code §§8400-8405.

⁹ Prob. Code §§8800-8980.

¹⁰ Prob. Code §§9000-9353.

¹¹ Prob. Code §11004.

¹² Prob. Code §10800 and §10810.

¹³ Prob. Code §10801 and §10811.

¹⁴ Cal. Rules of Ct., Rule 7.703.

¹⁵ Prob. Code §12200.

¹⁶ Cal. Rules of Ct., Rule 7.651.



Test No. 122

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. A probate is used to transfer assets that the decedent holds in his or her name upon their death with no other way to transfer the asset.
☐ True ☐ False
2. A petition for probate must be filed when the decedent's assets total less than \$150,000.00.
☐ True ☐ False
3. A decedent's estate property includes any property held by the person, in their name, at the time of their death.
☐ True ☐ False
4. When the individual dies without a will (i.e. intestate), then the decedent's assets should ultimately be distributed pursuant to the Probate Code.
☐ True ☐ False
5. If the decedent died with a will (i.e. testate), then the assets will be distributed pursuant to the terms of that will.
☐ True ☐ False
6. If the decedent had a will, a copy of the will should not be attached to the petition.
☐ True ☐ False
7. The Independent Administration of Estates Act (IAEA) allows the personal representative to take certain actions without supervision of the court.
☐ True ☐ False
8. Limited IAEA authority means the personal representative will have to petition the court for an order approving the sale of the property.
☐ True ☐ False
9. Once the court orders and appoints a personal representative, the personal representative will still need to be bonded and letters of administration will need to be issued before the personal representative can begin administering the estate.
☐ True ☐ False
10. The personal representative has powers to administer the estate before the letters of administration have become effective by the court.
☐ True ☐ False
11. A good way for the personal representative to begin to collect assets and debts is to forward the decedent's mail to the personal representative's address.
☐ True ☐ False
12. The personal representative should contact the Social Security Administration to have Social Security payments to the decedent discontinued.
☐ True ☐ False
13. Four months after the letters of administration are issued, the personal representative is required to file an inventory of the decedent's property in the estate and an appraisal of the property in the inventory.
☐ True ☐ False
14. If the personal representative later finds additional property owned by the decedent, then the personal representative is required to file a supplemental inventory and appraisal listing the newly found property.
☐ True ☐ False
15. A personal representative cannot be reimbursed for necessary expenses of the administration of the estate.
☐ True ☐ False
16. Extraordinary fees cannot be awarded on petition to the court for extraordinary services by the attorney.
☐ True ☐ False
17. The final petition for distribution shows an accounting for the estate and the proposed distribution of the estate assets, if any, to the beneficiaries or heirs.
☐ True ☐ False
18. Before the beneficiaries have received their share of the inheritance, the personal representative should file a petition for discharge.
☐ True ☐ False
19. The petition for discharge should include receipts from each beneficiary that received a share from the estate.
☐ True ☐ False
20. One way to avoid probate is to create a trust and hold assets in the name of the trust.
☐ True ☐ False

MCLE Answer Sheet No. 122

INSTRUCTIONS:

1. Accurately complete this form.
2. Study the MCLE article in this issue.
3. Answer the test questions by marking the appropriate boxes below.
4. Mail this form and the \$20 testing fee for SFVBA members (or \$30 for non-SFVBA members) to:

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

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

- | | | |
|-----|-------------------------------|--------------------------------|
| 1. | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 2. | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 3. | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 4. | <input type="checkbox"/> True | <input type="checkbox"/> False |
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| 20. | <input type="checkbox"/> True | <input type="checkbox"/> False |



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Friday, January 18

- ◆ 9:00 a.m.
Registration and Continental Breakfast
- ◆ 9:30 a.m.
Nuts and Bolts of Estate Planning
Alice A. Salvo
Law Offices of Alice A. Salvo
1 MCLE Hour
- ◆ 10:30 a.m.
Legal Potpourri
1 MCLE Hour
- ◆ 11:30 a.m.
Financial Wellness Education for Lawyers
John Horn, Cohan-Horn
1 MCLE Hour
- ◆ 12:30 p.m.
Lunch (Inclusive for All-Day Registrants)
- ◆ 1:30 p.m.
Eliminating Sexual Harassment, Discrimination and Bias in the Workplace
Hannah Sweiss and Tal Yeyni
Lewitt Hackman
1 MCLE Hour
(Recognition and Elimination of Bias in the Legal Profession and Society)
- ◆ 2:30 p.m.
What Should You Tell Your Clients About Prop. 65
Stephen T. Holzer, Lewitt Hackman
1 MCLE Hour
- ◆ 3:30 p.m.
Hot Tips: Legal Malpractice and Revised Rules of Professional Conduct
Marshall R. Cole, Nemecek Cole
1.5 MCLE Hours (1 Hour Legal Ethics and .5 General)

Saturday, January 19

- ◆ 8:45 a.m.
Registration and Continental Breakfast
- ◆ 9:00 a.m.
Prevention of Substance Abuse
Doug Ridley
Sponsored by Alcock USA
1 MCLE Hour (Competence Issues)
- ◆ 10:00 a.m.
Trust Accounting
Jenny Chen, CPA
Hutchinson and Bloodgood LLP,
Certified Public Accountants and Consultants
1 MCLE Hour (Legal Ethics)
- ◆ 11:00 a.m.
The Future of Legal Technology
Thomson Reuters
1 MCLE Hour
- ◆ 12:00 noon
Lunch (Inclusive for All-Day Registrants)
- ◆ 1:00 p.m.
Escaping Bar Discipline
Prof. Robert Barrett
2 MCLE Hours (Legal Ethics)
- ◆ 3:00 p.m.
Avoiding the Top Ten Insurance Mistakes: How Best to Advise Your Clients
Elliot Matloff, Matloff Company
1 MCLE Hour

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<input type="checkbox"/> Per MCLE Hour	\$40	\$69
<input checked="" type="checkbox"/> Class Attending		
<input type="checkbox"/> Late Registration Fee	\$40	\$60
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Signature _____

By Michael D. White

A Cut Above: The Elite Study Group





THE ELITE STUDY GROUP:

(Front Row, L-R) Ronald A. Rale, Gary J. Weyman, Judy L. Bogen, Ronald F. Brot, Nancy L. Kelso, Benjamin Swartzman, Lionel P. Levin.

(Back Row, L-R) Diane M. Goodman, Daniel B. Davisson, Steven L. Weiss, Stephen N. Shapiro, James E. Cox, Donald Zelinsky.

Missing: Jeffrey M. Slater, Martin S. Bakst, Hugh A. Lipton, Robert L. Schibel, Emily S. Edelman, Lori A. Loo, Melvin S. Goldsman.

Photos by Ron Murray

MANY PROFESSIONALS WAIT UNTIL retirement or when they have some free time to devote their efforts to mentoring those who are less experienced in their chosen field. In other words, mentoring is, more often than not, seen as older people—mentors—giving back by counseling younger people—mentees.

However, mentoring is not always about age. It can be about knowledge and experience shared among equals on the same path.

“We’re all linked together because each of us wants to help people through what can be one of the most difficult periods in their lives,” says attorney Don Zelinsky, one of the longest-active members of the Elite Study Group (ESG), an assemblage of family law practitioners, founded in the early 1980s by the late Barry Harlan.

At the time of its founding, the ESG was made up of sole practitioners says Zelinsky, a past president of the San Fernando Valley Bar Association (SFVBA). “None of us were with large firms at the time. Typically, at a large firm, when you have questions or problems, you bounce it off other members of the firm.



In Memoriam



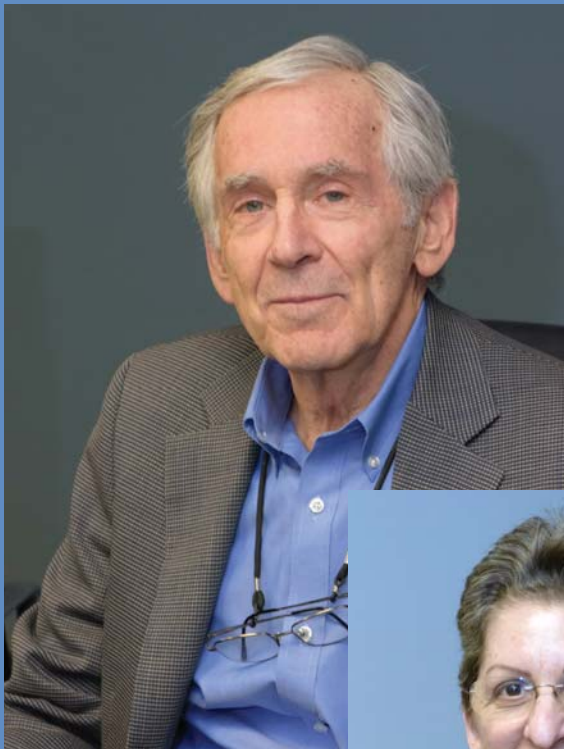
When you are a sole practitioner, you do not have that, so we got together to be able to do that.”

Attorney Gary Weyman—like Zelinsky, one of the original members of the group—calls Harlan, the “Godfather” of the ESG. “We’d meet the third Thursday of every month in Barry’s office to talk about any issues we might have with a case. We couldn’t, of course, discuss any cases we had with each other, but we could discuss the law and how it was impacting our work.”

Harlan died suddenly in February 2017. Highly regarded and widely respected by both his peers and his clients, Harlan was a State Bar Certified Specialist in family law and served as Chair of the Family Law Practice Group at the Encino firm of Lewitt Hackman.

At Harlan’s passing, the reins of the ESG were handed over to attorney Ron Brot, a longtime member of the SFVBA, who, on July 1, 2019, will assume the post of president of the Los Angeles County Bar Association (LACBA).

According to Brot, the purpose of the group is, simply, for its members to stay abreast of case law and statutory developments and to know what is going on with the courts. “But more than just gaining information, we have an opportunity to exchange ideas about



that. I feel we deal with people going through the worst, doing their best. We want to help our clients navigate their way through the situation they've found themselves in and that may not be pain-free, but, like going to the dentist, you endure what you have to endure and hope that it will work out in the end."

Attorney Judy Bogen has been a member of the ESG for almost 27 years and, for several years, served as a Superior Court Judge Pro Tem. "It's a very close knit group and we trust one another," she says. "There's a wealth of information and experience and there's always something to learn, even for those who've been practicing for decades. We have lawyers who work in every area of family law, so there's not a question that I might have that someone won't be able to help me with an answer."

Every member of the Group, says Bogen, "is completely there for each other, even when we don't meet. So, we have an email that goes to everybody and we're constantly asking each other questions and helping each other. We're there

what the law is, and what the law should be, and so it becomes a fertile environment for establishing new approaches to the cases we're working on. That helps us to better serve our clients."

Currently, some 95 percent of the members of the ESG are certified family law specialists. Members of the Group average 40 years in the law and chalk up an aggregate total of more than 560 years of legal practice.

"I think law, in general, is reflexive," says Brot. "It deals with things that have happened in the past...a breached contract, an antitrust development issue that impacts the business sector. Family law is virtually all prospective. It deals with what life will be for a family which is inevitably caught in a situation that was not contemplated...when people get married, they don't plan on getting divorced and lay the groundwork for an uncertain future for themselves and their children."

Family law attorneys, he says, "have the opportunity to help people through what I feel is the darkest period in their lives. Some people say we deal with people when they're at their worst. I never say



not only as professionals, but as friends and real people. It's very close knit."

Valley people, she says, "are a special group. Family law in the San Fernando Valley was, for years, considered a stepchild by family law lawyers over the hill. There was for the longest time the presumption that you had to be a Westside family law attorney to be really great."

What changed? "Most of our members are sole practitioners who began their practices in the San Fernando Valley. They represent the whole gamut of people who need help. In the Valley, we've learned how to provide our services to people who really need it. Though we may get paid less than lawyers over the hill, the quality of the legal services we provide has never suffered. We are committed to a community that needs our help in what, for them, are troubling times."

The members of the ESG, she says, are "truly extraordinary people. Quite often, we



find ourselves opposing another member in the courtroom, but that doesn't matter because working in family law means you have to be a different sort of attorney. We're professionals, but we're also friends."

The Group's members, says Don Zelinsky, "work very hard together. Sometimes, before a meeting, someone will have a question or a problem and they'll send out an email to everyone soliciting their input. We couldn't do that unless we were very comfortable with each other. We're a family, if you will."

Originally restricting its membership to family law attorneys practicing in the San Fernando Valley, the ESG has extended its horizons over the years.

The ESG, says Gary Weyman, "has grown its members geographically because of the changing demographics of the region. We've got attorneys in the group now who practice in Palmdale and Ventura



that bring different perspectives on the various issues that family law entails.”

Each of the individual members of the ESG, he adds, bring significant experience to the group and are active in a wide variety of professional legal activities. For example, Gary Weyman administers the Voluntary Attorney Settlement Team, which mediates family law cases for courts in Pasadena, Chatsworth and Van Nuys.

Don Zelinsky is a former Judge Pro Tem and Mediator and has practiced as a Board Certified Family Law Specialist for over 27 years, handling all types of family law matters including high conflict cases, complex financial cases, custody and visitation matters, domestic violence cases, and pre and post nuptial agreements.

Attorney Diane Goodman is the author of the parentage chapter of Practice Under the California Family Code. A mediator and family law practitioner, her practice has been focused on the cutting edge of developing and fostering areas in family law, especially in the areas of adoption and surrogacy law.

Goodman has been a member of the ESG for “several years” and credits the group and its give-and-take philosophy with helping hone her professional skills.

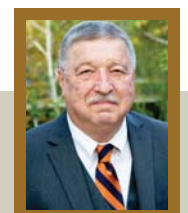
“I bring my knowledge of parentage law and my experience as a mediator, and I get the opportunity to discuss out-of-the-box issues that I’m not sure how to resolve,” she says. “Meeting with others on a regular basis and having the opportunity to go over changes in case law is very helpful, and learning from the issues that others are dealing with goes a long way in helping me become a better lawyer.”

Goodman has handled many complex parentage issues including acting as co-counsel in a California Supreme Court decision regarding the rights of lesbian parents.

A member of the SFVBA and numerous other professional groups, Goodman received the 2011 Los Angeles Superior Court Alternative Dispute Resolution Program Outstanding Volunteer-Family law award and was the 2004 recipient of the Difference Maker award from the American Bar Association, Solo and Small firm section.

“What’s most impressive to me is that the Group has remained so solid for all these years and that all of the members live up to their commitments, whether it’s arranging for a speaker or putting together a presentation,” says Goodman. “I’m truly honored to be a member.”

Working with the Elite Study Group, says Ron Brot, is a tremendous source of pride. “I am so proud of what we as lawyers can do, not only for each other, but especially for the community by providing people with access to justice. We are so very privileged to be lawyers and to be able to do worthy work.” 🏛️



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

Bringing Bullies to Court

By Shep A. Zebberman



BULLYING IS AGGRESSIVE behavior that is intentional and involves an imbalance of power or strength. Bullying can occur in the form of physical violence, verbal bullying such as intimidation by threats or on the web through social media known as cyberbullying. Children with disabilities are often targets of bullying.

According to Marini, Fairbairn & Zuber, 2001, there are five characteristics of bullying:

1. Bullies demonstrate greater physical strength, higher cognitive abilities, or knowledge of psychological vulnerabilities.
2. Acts of bullying are rarely isolated. Repetition distinguishes bullying and has a devastating impact. The anticipation and expectation of future abuse inflicts great harm on victims.
3. Bullies act purposefully, seeking to injure their peers physically and/or psychologically.

4. Bullying victims live with constant fear and a feeling of powerlessness.

5. Bullies go to considerable lengths to keep their acts hidden from parents and teachers.¹

While bullying can and often does involve overt physical behavior or verbal, emotional, or social behaviors—such as excluding someone from social activities, making threats, withdrawing attention, destroying someone's reputation, etc.—it can also involve subtle and covert behaviors. Cyberbullying, or bullying through electronic technology (e.g., cell phones, computers, online/social media), can include offensive text messages or emails, rumors or embarrassing photos posted on social networking sites, or fake online profiles.

Addressing and reporting bullying is critical. Students who are targets of bullying behavior are more likely to experience lower academic achievement and aspirations, higher truancy rates, feelings of alienation from school, poor relationships with peers, loneliness, or

depression. Bystanders, or those who only see or hear about bullying, also may be negatively affected as bullying tends to have harmful effects on overall school climate. Bullying can foster fear and disrespect and negatively affect the school experience, norms, and relationships of all students, families, and school personnel.

Consequences include students changing their patterns of school participation or schools eliminating school activities (e.g., dances, sporting events) where bullying has occurred. Teachers, school personnel, parents, and students should report bullying when they become aware of it.

Can Bullying Be Illegal?

Bullying behavior may cross the line to become "disability harassment," which is illegal under Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the Individuals with Disabilities Education Act (IDEA).^{2 3 4}

It may also rise to the level of a criminal threat in violation of P.C. §422.⁵



Shep A. Zebberman is the principal at the Law Office of Shep Zebberman in Encino. He practices criminal defense, juvenile delinquency and dependency and educational rights law and can be reached at shep@zebermanlaw.com.

California Education Code §200 et seq.⁶ also sets for a student's right to be free from harassment at school. Should bullying be treated as a crime? What is the appropriate course of action when a child becomes the victim of bullying?

The bulk of the bullying taking place on school grounds is believed to be peer-to-peer bullying. Often, teachers and other school staff may be parties to school bullying and disability harassment. This can occur by being active participants in bullying or by observing such activity without taking appropriate action to address the behavior.

Do's and Don'ts

In the past, Stopbullying.gov has suggested that when adults respond quickly and consistently to bullying behavior they send the message that it is not acceptable. Research shows this can stop bullying behavior over time.

There are simple steps adults can take to stop bullying on the spot and keep kids safe—intervene immediately; separate the kids involved; make sure everyone is safe; meet any immediate medical or mental health needs; stay calm; reassure the kids involved, including bystanders; and model respectful behavior when you intervene.

There are also common mistakes to be avoided—don't ignore it or think kids can work it out without adult help; don't immediately try to sort out the facts or force other kids to say publicly what they saw; don't question the children involved in front of other kids; don't talk to the kids involved together, only separately; and don't make the kids involved apologize or patch up relations on the spot.

Get police help or medical attention immediately if a weapon is involved; there are threats of serious physical injury or of hate-motivated violence, such as racism or homophobia; there is serious bodily harm or sexual abuse; and anyone

involved is accused of an illegal act, such as robbery, extortion, or using force to get money, property, or services.

Why Not Create a Bully Court?

Currently, numerous specialty courts within the juvenile justice system are intended to offer an alternative to traditional juvenile justice and school disciplinary proceedings.

These specialty courts operate under the common assumption that there are some cases where it is more beneficial to society and to the accused to resolve the problem through voluntary treatment rather than through the penal system.

Benefits include more successful outcomes, reduced cost, reduced recidivism and a lessening of a burden on an overcrowded penal system. Some examples of these courts include Drug Court, Teen Court, Mental Health Court and Domestic Violence Court. Adult Courts have a similar concept which includes Veteran's Court, Homeless Court and Sex Trafficking Victim's Court. These courts are for the most part diversion programs and may be administered and operated by law enforcement agencies, probation departments, courts, schools, and/or nonprofit organizations.

Why not create a bullying court after the model of the closely related Teen Court? Teen Court programs offer an avenue for engaging the community in a partnership with the juvenile justice system to respond to the problem of juvenile crime by increasing awareness of the delinquency issues within the local community, and by mobilizing community members (including youth) to take an active role in addressing the problem within the community with minimal or no court intervention.

In most Teen Court programs, the accused is judged by peers, i.e., other teens. If appropriate, the teens also recommend to the probation



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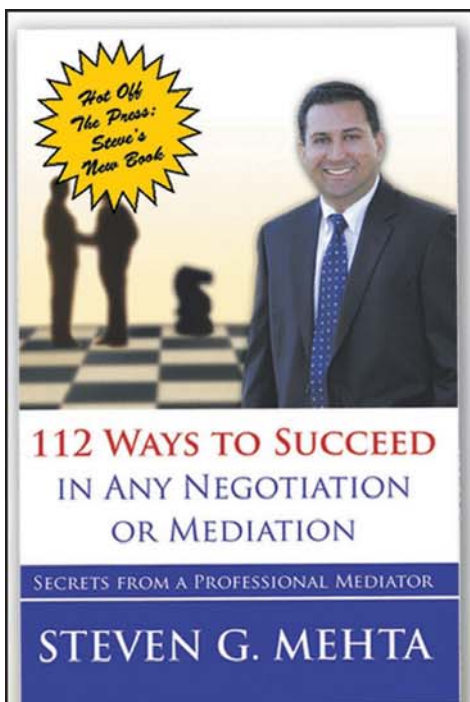
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department (agency operating the program) a recommended sentence. Such courts offer communities an opportunity to provide immediate consequences and appropriate treatment for youthful offenders.

Teen Courts function as actual courts for young people who commit non-serious crimes for which they are questioned, judged and sentenced by a jury of their peers. Teen Court provides an alternative to Juvenile Court, and is based on the philosophy that a young person who engages in criminal activity for the first time should have the opportunity to correct his or her behavior with support from the justice system in the hope that the offender will not commit more serious crimes later.

Teen Court jurors are selected from the high school's student body and offer the young person who is found guilty the opportunity, upon successful completion of his or her sentence within six months, to have no record of a criminal conviction.

Further, Teen Court protects a young person from unnecessary involvement in the juvenile justice system. For students who participate as jurors, clerks and bailiffs, Teen Court offers valuable lessons about how courts operate and what it is like to be a part of the justice system. Many Teen Court jurors later express an interest in studying law. The court and the public also benefit because it enables the juvenile justice system to focus its resources on higher risk offenders. The Los Angeles Superior Court currently operates 38 Teen Courts in high schools throughout Los Angeles County. More than 70 judicial officers preside over Teen Courts and typically hear trials one to two afternoons each month.


A Similar Model

A similar model could be instituted as a subset of Teen Court or as its own specialty court based on the same model. Staff could receive specialized training and education in all aspects

and dynamics of bullying. Appropriate educational and counselling programs could be required as a part of a "convicted" bully's "sentence."

Participation in the program would be voluntary but like most specialty courts, is in lieu of actual charges being brought against the teen. Of course, punishment can be a component of the rehabilitation process, but not necessarily incarceration. The program can also require parental education in such areas as how to recognize signs of bullying and tools to monitor children's use of social media.

A bully court may have other value in addition to potentially reducing the frequency of bullying that occurs. The program could presumably foster volunteerism since these programs are typically run by volunteers. Youths participation in the program could also improve participants' communication, negotiating and analytical skills. It would also encourage and promote community involvement.

In October 2014, as part of National Bullying Prevention Awareness Month, the U.S. Education Department's Office for Civil Rights (OCR) issued guidance to schools reminding them that bullying is unacceptable and must not be tolerated. However, incidents of bullying occur both on and off campus, as well as in cyberspace, so the problem cannot be laid solely on the shoulders of schools to fix. When a school, parents, friends, clergy, coaches or caretakers learn an incident of bullying may have occurred, it should be investigated promptly and responded to appropriately. A specialty bullying court may just be the appropriate response. 

¹ Marini, Z., Fairbairn, L. & Zuber, R., "Peer Harassment in Individuals with Developmental Disabilities: Towards the Development of a Multi-Dimensional Bullying Identification Model," *Developmental Disabilities Bulletin*, 29, 170-195 (2001).

² Section 504, Rehabilitation Act of 1973.

³ Title II, Americans with Disabilities Act (ADA) of 1990.

⁴ Individuals with Disabilities Education Act (IDEA).

⁵ P.C. §422.

⁶ California Education Code §200 et seq.

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Copyright Infringement: Surviving a Motion to Dismiss

By C. Valerie Ibe



MANY POTENTIAL LITIGANTS are quick to file a copyright infringement case against an alleged copyright infringer. Many of those cases fail to survive the motion to dismiss stage.

To avoid the pitfalls that many have faced, it is useful to have a firm grasp of the Copyright Act in the jurisdiction where one is suing and of course, to be conversant with the heightened pleading requirements in federal court.

While there are are myriad reasons why a copyright infringement case may not survive a motion to dismiss, a few examples follow.

Failure to Identify the Relevant Copyright Law

Section 411(a) of the Copyright Act states that, “no civil action for infringement of the copyright in any United States work

shall be instituted until...registration of the copyright claim has been made in accordance with this title.”¹

The ability to bring an action for copyright infringement depends on when registration is deemed to have occurred. The United States Courts of Appeal are split on the interpretation of when ‘registration’ occurs in the copyright process. Some circuits have held that actual registration is required. Some others like the Ninth Circuit, are of the opinion that merely applying to register a copyright gives the plaintiff applicant the right to sue for alleged infringement that occurs after the application for registration.²

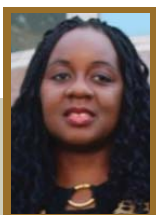
For registration to be valid in the Ninth Circuit, the applicant would need to apply for copyright registration on a form approved by the Copyright Office. The application would have to include among other things, the name

and address of the applicant, the year the work sought to be registered was completed, the nation in which it was first published (for published works) and many other requirements, specified in 17 U.S.C. §409.³

Registration is complete in the Ninth Circuit once the copyright application has been completed and submitted to the Copyright Office. Conversely, any action for copyright infringement brought before the application for registration has been filed, will fail, as no right to bring an action arises to the plaintiff applicant before the application is filed. These are important distinctions to note when filing a copyright action.

Failure to Plead Time and Place

The FRCP Rule 9(f) provides that an allegation of time or place is material when testing the sufficiency of a pleading.⁴ This is never more relevant



C. Valerie Ibe is a CPA and an attorney licensed to practice family, employment, and tax law, and general civil litigation in California, Maryland and New York. She can be reached at valerie@cvalerieibe-law.com.

than in a case wherein timing of an application for registration of a copyright determines if the plaintiff applicant even has the right to sue.

It is well settled in all Federal Courts and the Ninth Circuit that an allegation of time and place is material when testing the sufficiency of the pleading. It is crucial for the plaintiff to plead in its complaint the date, time and place of the alleged infringement in order to determine if it even has any rights to sue.

If the complaint does not give anyone, let alone the defendant, notice as to when the alleged infringement occurred, the defendant will be left to guess when it is that the plaintiff contends he or she violated the copyright infringement laws. A complaint that is bereft of any date and time of the alleged infringement fails to meet the basic pleading requirements, specifically FRCP Rules 9(f). Even if the date and time were alleged, the complaint would still fail pursuant to Rule 12(b)(6) if many of the basic facts that one would expect to see in a complaint are absent in the pleading.⁵

Failure to State a Claim of Copyright Infringement

To establish a prima facie case of direct

infringement, a plaintiff "must show ownership of the allegedly infringed material" and "demonstrate that the alleged infringers violated at least one exclusive right granted to copyright holders under 17 U.S.C. § 106."⁶

Direct infringement requires the plaintiff to show causation (also referred to as "volitional conduct") by the defendant.⁷ The plaintiff must show substantial similarity between the parties' works and that the defendant had access to the plaintiff's work.⁸

Plaintiff would have to allege that the defendant purchased, authorized, sold work or designs substantially similar to its own. The plaintiff would also have to show in the complaint how the defendant authorized the designs or that defendant had access to its work. Even though a plaintiff filed a copyright application, which is a precondition to filing a copyright infringement lawsuit in the Ninth Circuit, he or she will have to show ownership of the alleged infringed material.

The plaintiff will have to state whether his copyright application is in the processing stage with the Copyright Office, or provide proof that registration has been granted. The work that is the subject of the copyright infringement

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suit has to be unique. If it is prevalent and commonplace, it is hard to see how it could be subject to a copyright claim. The designs/work that are alleged to have been copyrighted have to bear substantial similarity to the work/designs being copied.

Assuming that the plaintiff has shown ownership of the alleged infringed material, it also has to demonstrate that defendant violated at least one exclusive right granted to it over the work/design.

A complaint filled with unfounded allegations and innuendo as to how the defendant copied, purchased, sold and marketed designs that it claims are similar to its designs, will not survive a motion to dismiss.

“

A plaintiff, to succeed in this claim must prove that the defendant had the right and ability to supervise the infringing activity.”

Failure to State a Claim of Vicarious Copyright Infringement


A fourth prong applies if the plaintiff files a claim of vicarious copyright infringement against a defendant and is unable to prove it. Vicarious liability is when one is held liable for another person's conduct.⁹

This is found in relationships like master-servant relationship, employer-employee relationship or parent-child relationship. To find one liable for vicarious copyright infringement, a plaintiff must prove “the defendant has, first, the right and ability to supervise the infringing conduct and, second, a direct financial interest in the infringing activity.”¹⁰ It is easier to make that case against a direct infringer than an alleged third party infringer.

In one case, adult entertainment website and magazine *Perfect 10, Inc.* sued credit card companies for vicarious copyright infringement because they processed credit card payments of customers who *Perfect 10, Inc.* alleged had infringed on its products.

The claim failed because *Perfect 10, Inc.* was unable to prove that the credit card companies' act of processing the alleged direct infringers' credit card payments were tantamount to “the right and ability to supervise the infringing conduct.” Neither was *Perfect 10, Inc.* able to prove that the credit card fees that were earned by the credit card companies for processing those payments were “direct financial interest in the infringing activity.”

A plaintiff, to succeed in this claim must prove that the defendant had the right and ability to supervise the infringing activity. Processing credit card payments that were used by alleged direct infringers to purchase the infringed products is not evidence of direct financial interest in the infringing activity. It is at best an indirect financial interest that is incidental to the credit card companies' job of processing payments.

The plaintiff has to be able to point to some relationships that would put the defendant in a position to supervise whoever was allegedly performing the infringing activity and defendant's knowledge of the infringing conduct. 

¹ 17 U.S.C. §411.

² *Cosmetic Ideas Inc. v. IAC/Interactive Corp.*, United States Court of Appeal for the Ninth District, No. 08-56079, 2010 DJDAR.

³ U.S. Code – Unannotated Title 17. Copyrights §409. Application for Copyright Registration.

⁴ Federal Rules of Civil Procedure, Rule 9(f).

⁵ Federal Rules of Civil Procedure, Rule 12(b)(6).

⁶ *A&M Records, Inc. v. Napster, Inc.*, 239 F.3d 1004, 1013 (9th Cir. 2001).

⁷ *Fox Broad. Co., Inc. v. Dish Network LLC*, 747 F.3d 1060, 1067 (9th Cir. 2013).

⁸ *Langman Fabrics v. Graff Californiawear, Inc.*, 160 F.3d 106, 115 (2d Cir. 1998).

⁹ Collins Dictionary of Law, W.J. Stewart, 2006.

¹⁰ *Perfect 10, Inc. v. Visa Int'l Serv. Assn*, 494 F.3d 802 (9th Circuit, 2007).

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A Memorable Partnership

FOR NEARLY TWO DECADES, the Tarzana-based law firm of Briskin, Lang & Pene APC has taken an active role in the SFVBA's Attorney Referral Service program.

Originally founded as Briskin, Latzanich & Pene LLP, the firm will be dissolved at the end of this month as its original partners, attorneys Jeffrey Briskin and Katherine Pene, are retiring their practice.

In recognition of their long and affable partnership with the ARS, we'd like to share the details of one of the most memorable cases that we've worked on together.

On June 11, 2002, the ARS received a call from an individual who had been locked out of her apartment after an explosion caused by a natural gas leak. The resultant fire destroyed ten apartments, severely damaged several others, with the cleanup work leading to asbestos contamination in several parts of the common area and some of the apartments that made it through the fire.

The ARS referred the case to Katherine Pene, who wasn't surprised the referral blossomed into a class action lawsuit when it became known that the landlord wanted to evict the remaining tenants and had hired a security company that had failed to provide appropriate services.

CATHERINE CARBALLO-MERINO
ARS Referral Consultant



catherine@sfvba.org

"The big issue was that the tenants who were locked out of their apartments at the time of the fire thought they would be able to go back the next day," says Pene. "Some of them were in shelters, some had no place to stay, they had no clothes and they didn't have any of their medication. So we had a drive for people to bring in clothes and jackets and so forth because those people had nothing."

Obtaining justice for the tenants wasn't easy as the defendants blamed one another and avoided paying their legal bills.

To top it all, it wasn't easy to maintain records of 158

plaintiffs "before we had the kind of computers that would be able to handle that sort of the thing," says Pene.

"We teamed up with Mastry & Vittoe [the firm of Erin Brockovich fame] to use their facilities and equipment because

they had handled a lot of mass torts."

After Pene was able to negotiate a settlement, disbursing it also proved to be a challenge. A retainer agreement was drafted by Mastry & Vittoe's and retired Judge Bruce Sotelli was hired to review and determine the disbursement. At the time, the settlement proved to be the largest referral fee percentage ever earned by the ARS.

The ARS thanks Jeffrey Briskin and Katherine Pene for their years of commitment to the legal profession and the community and wish them a well-deserved and restful retirement. 🏠

“

After Pene was able to negotiate a settlement, disbursing it also proved to be a challenge.”



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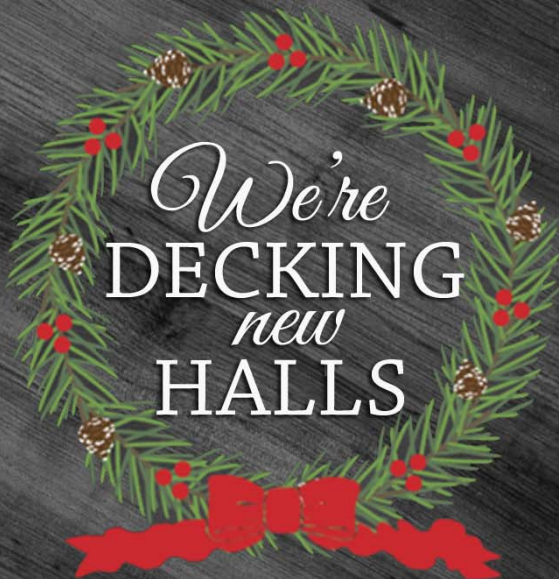
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HELP FOR WOOLSEY FIRE VICTIMS

In the aftermath of the devastating wildfires, survivors face a wide variety of legal problems and barriers to recovery. This holiday season, the SFVBA is inviting its members to participate in disaster legal services and pro bono efforts, including brief phone assistance, staffing Disaster Assistance Centers (DAC), in person assistance at know-your-rights workshops, community forums and legal aid clinics.

VOLUNTEER YOUR SERVICES

Neighborhood Legal Services of Los Angeles: Lena Silver at lenasilver@nls.org
Pepperdine Disaster Relief Clinic: Jeff Baker at jeff.baker@pepperdine.edu

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Member Focus



Without its individual members no organization can function. Each of the San Fernando Valley Bar Association's 2,000-plus members is a critical component that makes the Bar one of the most highly respected professional legal groups in the state. Every month starting in this issue, we will introduce two members of the Bar and help put a face on our organization.



Deborah Sweeney
Owner & CEO
MyCorporation
Calabasas

Deborah Sweeney calls herself the "original California girl, a claim that's difficult, if not impossible, to refute.

A multi-tasking mom of two sons and aerobics and fitness enthusiast, Sweeney was born and raised in the San Fernando Valley, and graduated from Notre Dame High School in Sherman Oaks before attending UC-Irvine and graduating from both business and law schools at Pepperdine in Malibu. She served as a partner at Michelman & Robinson, LLP practicing in the areas of intellectual property and corporate law, before joining Intuit in 2004, where she worked as the General Manager of the company's MyCorporation division.

In 2009, Intuit decided to divest itself of several of its operating divisions and the opportunity to acquire MyCorporation presented itself. Sweeney jumped at the chance, the deal was finalized and for the past nine years, she has served as CEO and owner of MyCorporation, which boasts 54 employees at its Calabasas headquarters.

"I truly enjoy entrepreneurship and being able to work with emerging technologies and markets of all sizes do their online legal and business filings with various government agencies," she says. "We work a lot as the back end for attorneys, CPAs and financial advisors who don't have the time to walk paperwork into the appropriate government office."

Her biggest challenge? "Balance," says Sweeney, who contributes frequently to *Forbes* and other business publications, serves on the Board of Regents at Cal Lutheran University and has taught courses in corporate and intellectual property law as an adjunct professor at the University of West Los Angeles School of Law.

"I have two teenage boys and a husband who owns his own business. I don't know if a perfect balance is possible, but finding the right one that works for our family has been my biggest challenge, but I embrace it. This is a special time in my life when I've got my parents and my husband and my kids and I treasure that."



Hratch Karakachian
Attorney – CPA
Glendale

When Hratch Karakachian got off the plane in Los Angeles from his native Lebanon, he was a 17-year old kid with a fluency in four languages—French, Arabic, Armenian and English—and a "determination to get a great education and take advantage of all the opportunities I knew the U.S. would make available to me."

To say that his resolution has borne fruit would reach the heights of understatement. "I had no idea how I was going to accomplish it," he says, "but I was very, very determined."

The "it" Karakachian has accomplished includes an Associate's degree from Glendale Community College, a pair of Bachelor's degrees (business and accounting), as well as a Master's in Taxation from USC's Marshall School of Business, and a JD earned after four years of night classes at the University of West Los Angeles. He's also earned a CPA license, rose to senior level management positions with both Arthur Anderson and Deloitte Touche, and currently heads his own Glendale-based law/accounting firm.

In his spare time, he serves as an adjunct faculty member in California Lutheran University School of Management and has taught courses in the school's MBA in Financial Planning program since 2013. He has also taught Managerial Accounting and Income Tax and Strategy, as well as courses on the Foundations of Accounting and Finance.

He also currently serves as co-chair of the San Fernando Valley Bar Association's Tax Section and as a member of the Bar's Nominating Committee.

"I never doubted or questioned my decision to go to law school," says Karakachian. "It was very difficult and very challenging, but I started it and was determined to finish it."

Being both an attorney and an accountant "complement one another," he says. "They both provide the opportunity to look at situations from different angles. As a CPA, the focus is on the numbers...as an attorney, there's more analysis and study involved in coming up with the correct solution. Being a CPA makes me a better business person, while my legal training helps me take a step back and work through the details a little bit more carefully."

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Celebrate Paying It Forward

THANKS TO YI SUN KIM AND the SFVBA staff for organizing an enjoyable and memorable Installation Gala. And I especially want to thank you for embracing the Valley Community Legal Foundation as an integral part of the celebration.

The VCLF was proud and honored to feature two of the most important aspects of our charitable activities. In recognition of the \$9,000 in scholarships we awarded to seven high school students interested in law-related careers, we were privileged to have Grace Fabian join us at the Gala. Grace is the Magnet Coordinator at James Monroe High School in North Hills, a magnet school for Law & Government. She has worked closely with the VCLF to encourage students to apply for our scholarships, and has helped us with other education-related events. Grace has been an inspiration to the Monroe students and educators, and a beacon for the VCLF's efforts.

We also were delighted to have Maggie Boyle, our VCLF 2018 Achievement Scholarship winner, join us at the Gala. While at Monroe she was very active in the Police Academy, achieving the rank of Sergeant Two, and volunteering many hours to help improve relations between law enforcement and the public. Maggie graduated from Monroe with multiple honors and is investing her scholarship

money in earning her undergraduate degree from UC Santa Barbara.

I was very moved to receive a touching message from Grace after the Gala, and I want to share portions of that message. On behalf of herself and Maggie, Grace expressed her gratitude for our generosity, and for making "us both feel so very welcome and special. We had a great time."

Grace particularly pointed to Yi Sun as an inspiration, telling Maggie "That's going to be you some day."

As Grace said in her message to me, "Last night was a lesson about me being an active member outside of my immediate community and outside my comfort zone, about expanding my own perception of the world. It was a lesson in networking. [The Gala attendees] also modeled excellence in professionalism for me. Thank you [all for being an] unexpected mentor/role model. I greatly appreciate the gift I received last night and will pay it forward."

Grace also confirmed how much our scholarships are appreciated, even though the amounts may be modest. As she told me, the larger institutional scholarships "don't buy laptops or even scantrons, for that matter. The VCLF's scholarships purchase the items needed, but often forgotten, to be successful at college."

That is particularly true in Maggie's situation. Her parents work very hard,

Mark S. Shipow
President



mshipow@socal.rr.com

but are on a very limited budget. In this situation, as Grace told me, "the \$750 that the VCLF awarded Maggie is a huge amount of money. A laptop of her own for college is life-changing. Thank you for all that you have done and will be doing to open doors for others."

It is rewarding to know that the VCLF—and you through your donations—have made a difference. Thanks to the firm of Lewitt Hackman for sponsoring their attendance at the Gala. At the Gala, we also celebrated the VCLF's support of the Anti-Recidivism Coalition, a non-profit organization dedicated to helping people integrate back into society from incarceration.

The VCLF helped establish an attorney position at the ARC's Reentry Legal Clinic to work in conjunction with Root & Rebound, a reentry legal information and advocacy nonprofit that utilizes a three-pronged model—education, advocacy, and reform—to support currently and formerly incarcerated individuals by providing direct legal services and comprehensive educational materials.

Nicole Jeong, who was tapped to fill the position we helped create, gave a very moving presentation describing the difference our contributions have made. Through Nicole, ARC is able to provide regular know-your-rights trainings to ARC members and others in the community, as well as host free

ABOUT THE VCLF OF THE SFVBA

The Valley Community Legal Foundation is the charitable arm of the San Fernando Valley Bar Association, with the mission to support the legal needs of the Valley's youth, victims of domestic violence, and veterans. The Foundation also provides scholarships to qualified students pursuing legal careers and relies on donations to fund its work. To donate to the Valley Community Legal Foundation or learn more about its work, visit www.thevclf.org.

NEW MEMBERS

The following joined the SFVBA in September and October 2018:

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Paralegal

Susan Lynne Flier
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Personal Injury

Tzung-Lin Fu
Neighborhood Legal
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El Monte
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Michael J. Garcia
Sylmar
Veterans

Tina Ghomashchian
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Amber Hope Gordon
Amber Gordon, Attorney
at Law
Los Angeles
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Jennifer Ann Jancosek
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Law Student

quarterly community legal clinics in downtown L.A. and Sylmar. She also spends significant time providing legal representation for ARC members who are encountering legal barriers in their reentry. The breadth of work is wide and ranges from record-cleaning work to helping clients reunify with their children to requesting reductions of fines and fees. The VCLF's contribution to establishing this position clearly has made an impact. All of us should be proud to be part of this important effort.

It was obvious to me that Grace, Maggie and Nicole energized our members and supporters, and gave everyone good insight into the good work that the VCLF performs for our community. I was gratified that we were able to collect donations in excess of \$1,100 through the pledge cards distributed at the Gala. This was more than at any prior installation event.

But frankly, we need increased funding to continue our charitable efforts. This year, directed by our V.P. of Scholarships, Judge Virginia Keeny, we want to increase the number of scholarships we award so we can help even more students get what they need for a successful college career. We have plans—spearheaded by our Education Committee co-chairs Anngel Benoun and Judge Firdaus Dordi—to initiate a new program in high schools in which attorneys and judges will guide students in exploring issues of free speech in the context of social media.

We want to continue our support of ARC's efforts to provide legal services to individuals integrating back into society from incarceration. With the guidance of our VP of Grants, Patricia McCabe, we want to continue to help organizations that assist families in conflict and victims of domestic violence.

But we can only continue and expand our efforts with your help. Please contact me at mshipow@socal.rr.com or visit thevclf.org if you want to become involved, donate money, or obtain more information. 

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