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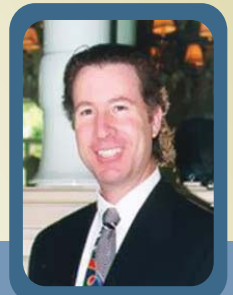
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On the cover: Assistant Presiding Judge Eric C. Taylor (left) and Presiding Judge Kevin C. Brazile
Photo by Ron Murray

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A Great Year Ahead

WELCOME EVERYONE TO A TRULY NEW YEAR for the San Fernando Valley Bar Association! The Bar has undergone some significant and exciting changes that we believe will make your membership more valuable and enjoyable in the future.

I am pleased to introduce you to our new Executive Director, Rosie Soto Cohen. Thank you to Alan Kassan and the other members of the search committee for dedicating so much time and effort into identifying the perfect candidate for the position.

Having Rosie become our Executive Director is actually our own success story for the SFVBA where she spent a majority of her career. She has grown, personally and professionally, through our organization, developed her interpersonal and leadership skills, earned promotions, assumed management, and created strong relationships and friendships with our members, judicial officers, and affiliates.

Rosie's career with the SFVBA dates back to September 2001, when she was first hired as Administrative Assistant. Rosie managed the SFVBA's membership database and was the first point of contact for many of the members.


In 2003, Rosie was promoted and worked as an Attorney Referral Service Consultant. She was responsible for properly screening clients and matching experienced attorneys capable of handling each client's legal need. She increased the department's productivity and volume of referrals, and was also engaged in public service programs specializing in service to the low income community and senior citizens.

In March 2008, Rosie would once again be promoted to serve as Director of Public Services for the Attorney Referral Service. As Director of Public Services, Rosie developed and implemented a marketing and public relations plan to identify unmet needs and increase referrals and revenue. Rosie launched a standalone website for the ARS. She achieved a successful marketing campaign, increased referrals by 40 percent in the last year, and increased reserves by 75 percent since 2008.

Rosie has experienced significant personal growth with the SFVBA as well. This is where she met her husband,

attorney and SFVBA member Michael L. Cohen, and they recently expanded the SFVBA family with the birth of their energetic daughter Mikayla.

Rosie has impressed us tremendously with her creative ideas, management skills, and eagerness to develop and ability to execute programs to benefit our members and strengthen the Bar's reputation. We are all excited to see her shine, and we will all benefit from her success.

I also want to welcome everyone to our new offices in Woodland Hills. After considerable thought and debate, the SFVBA has moved into a more open and modern space that is conducive to collaboration and networking, and allows us to be creative in the types and format of programs we provide. Please come visit and provide your feedback and ideas, so we can make this new opportunity work for you. 

YI SUN KIM
SFVBA President



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Awe and Wonder

MICHAEL D. WHITE
SfVBA Editor



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THOSE WITH INFINITELY MORE life experience than me are free to consider me a Pollyanna if I admit to the fact that something comes over me whenever I find myself in the presence of what I call a happening of genuine historical significance.

It is the same sort of feeling I got when, years ago while on business in Washington, D.C. shortly after 9/11, I talked a pair of National Park Service guards into letting me into an otherwise deserted Ford's Theatre. Awe, perhaps. Maybe, wonderment at being in a place where history took place.

Moving slowly down a side aisle to the first row before the stage, I took a seat just a few feet from where a war-weary Abraham Lincoln sat in the President's Box that fateful April 1865 evening and the course of history was changed forever.

A few weeks back, I had the opportunity to spend some time with Judge Kevin Brazile and Judge Eric Taylor, respectively, the incoming Presiding and Assistant Presiding Judges of the Los Angeles County Superior Court.

Both graciously carved out time from their mega-hectic schedules—Judge Taylor, based in Torrance, braved rush hour on the northbound 110 Freeway—to be interviewed at the Stanley Mosk Courthouse in downtown L.A. for this month's cover article, afterward donning their judicial robes

and genially posing for a photo shoot in the Presiding Judge's courtroom.


Watching our photographer at work and how the judges bantered back-and-forth like the old friends they are, I was, once again, struck with the same awe that had struck me decades before at Ford's Theatre.

I was privileged to be in a place where history was being made—Judges Brazile and Taylor are, it so happens, the first African-Americans to be named to head the largest single unified trial court in the entire United States.

They have, in effect, the responsibility of overseeing the activities of a judicial system of 38 courthouses located in 12 judicial districts that handle more than 1,500,000 filings every year. With an annual budget of nearly \$700 million, the court's jurisdiction covers an area of 4,752 square

miles encompassing 88 cities, 140 unincorporated areas and more than 90 law enforcement agencies that serve a population of more than 10 million people. A huge responsibility.

In interviewing these two gentlemen, I was struck by their sincere commitment to doing the best they can with all that is made available to them for not only the county's judicial system, but for those who seek justice.

"We owe it to the people to make sure that when they step into a courtroom, they will be treated equitably and with respect," Judge Brazile told me. "We owe them that and we'll do our best to do all we can to make sure that happens." 

“I was struck by their commitment to do the best they can...**”**



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SUN	MON	TUE	WED	THU	FRI	SAT
		<div>1</div> <div>2019</div> <div>HAPPY NEW YEAR!</div> <div>SFVBA OFFICES CLOSED</div>	<div>We are moving! 2</div> <div>20750 VENTURA BLVD.</div> <div>SUITE 140</div> <div>WOODLAND HILLS</div> <div>CA 91364</div>	3	4	5
6	<div>7</div> <div>  Valley Bar Network </div> <div>5:30 PM</div> <div> <p>Valley Bar Network is dedicated to offering organized, high quality networking for SFVBA members.</p> </div>	<div>8</div> <div> Probate & Estate Planning Section Hot Topics in Accounting and Bad Faith Objections 12:00 NOON MONTEREY AT ENCINO RESTAURANT </div> <div> <p>Blake A. Rummel will address key accounting issues and bad faith objections. (1 MCLE Hour)</p> </div> <div> Board of Trustees 6:00 PM SFVBA OFFICES </div>	9	<div>10</div> <div> Membership & Marketing Committee 6:00 PM SFVBA OFFICES </div>	<div>11</div> <div> Bankruptcy Law Section Fallout from the Woolsey Fire 12:00 NOON SFVBA OFFICES </div> <div> <p>Bankruptcy Judge Deborah J. Saltzman and attorneys Karen Dion and Nate Berneman will discuss the impact of disaster and the intersection of bankruptcy concerns. Approved for Bankruptcy Law Legal Specialization. (1.25 MCLE Hours)</p> </div>	12
13	14	<div>15</div> <div> Taxation Law Section 2019 Federal and California Business Tax Credits Update 12:00 NOON SFVBA OFFICES </div> <div> <p>John Langreck of Fox Consulting Group will provide an update on the tax credits and incentives available to all businesses. (1 MCLE Hour)</p> </div> <div> ARS Committee 6:00 PM SFVBA OFFICES </div>	<div>18-19</div> <div>  </div> <div>See page 12</div>			
20	<div>21</div> <div>  Martin Luther King Day SFVBA OFFICES CLOSED </div>	<div>22</div> <div> Editorial Committee 12:00 NOON SFVBA OFFICES </div>				
27	<div>28</div> <div> Family Law Section New Laws 5:30 PM MONTEREY AT ENCINO RESTAURANT </div> <div> <p>This must attend seminar kicks off 2019! Attorneys Robert Schibel and Lionel Levin review the latest laws every family law attorney should know about! Approved for Family Law Legal Specialization. (1.5 MCLE Hours)</p> </div>	29	30	31		

SUN	MON	TUE	WED	THU	FRI	SAT
BLACK HISTORY MONTH						
					1	2
3	4	5	6	7	8	9
 <p>5:30 PM</p> <p>VBN is dedicated to offering organized, high quality networking for SFVBA members.</p>				<p>Business Law & Real Property Section The Mechanics of Financing, Promissory Notes and Deeds of Trust 12:00 NOON SFVBA OFFICES</p> <p>Marshall Glick presents. (1MCLE Hour)</p> <p>Membership & Marketing Committee 6:00 PM SFVBA OFFICES</p>	<p>Bankruptcy Law Section 10 Important California Bankruptcy Cases 12:00 NOON SFVBA OFFICES</p> <p>Bankruptcy Judge Geraldine Mund and attorneys Dean Rallis and David R. Hagen will discuss the 10 significant cases that impact the practice of bankruptcy law. Approved for Bankruptcy Law Legal Specialization. (1.25 MCLE Hours)</p>	
10	11	<p>Probate & Estate Planning Section 12:00 NOON MONTEREY AT ENCINO RESTAURANT</p> <p>Attorney Scott Rahn addresses the group. (1 MCLE Hour)</p> <p>Board of Trustees 6:00 PM SFVBA OFFICES</p>				
17	18	19	<p>Save the Date ANNUAL JUDGES' NIGHT DINNER</p> <p>THURSDAY FEBRUARY 28 WARNER CENTER MARRIOTT</p> <p>HONORING Judge David B. Gelfound <i>Judge of the Year</i></p> <p>Judge Shirley K. Watkins <i>Administration of Justice Award</i></p> <p>SPECIAL RECOGNITION TO Presiding Judge Kevin C. Brazile and Assistant Presiding Judge Eric C. Taylor</p>			
 <p>SFVBA OFFICES CLOSED</p>		<p>Taxation Law Section Taxation Issues in the Digital Economy 12:00 NOON SFVBA OFFICES</p> <p>Monica Gianni, CSUN Tax Professor, will discuss the impact of changes to the economy on the taxation of digital economy. She will present her proposal to use a system such as California's factor presence to determine nexus for income tax internationally. (1 MCLE Hour)</p> <p>ARS Committee 6:00 PM SFVBA OFFICES</p>				
24	25	26				



The San Fernando Valley Bar Association is a State Bar of California MCLE approved provider. Visit www.sfvba.org for seminar pricing and to register online, or contact Linda Temkin at (818) 227-0495 or events@sfvba.org. Pricing discounted for active SFVBA members and early registration.

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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 Alcolock 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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New SFVBA Executive Director

**ROSIE SOTO
COHEN**
Executive Director



rosie@sfvba.org

I AM BOTH EXCITED AND honored to address you today as the new Executive Director of the San Fernando Valley Bar Association (SFVBA). A lot has happened since Liz Post, the former Executive Director, announced her departure just a few months ago. Immediately upon hearing the news, I knew that I wanted to become the next Executive Director. I also knew that it would not be easy.

The SFVBA developed a Search Committee headed by then President Alan E. Kassan. To assist in the hiring process, Alan recruited SFVBA Executive Committee members Yi Sun Kim, Barry P. Goldberg, David G. Jones, Christopher P. Warne, Past Presidents Sue M. Bendavid, James R. Felton, David Gurnick, David R. Hagen, Kira S. Masteller, and Carol L. Newman, as well as VCLF President Mark S. Shipow and SFVBA Trustee Heather P. Glick-Atala.

I believe the Hiring Committee and the Board of Trustees recognized my loyalty, appreciated my vision and believed in my enthusiasm and genuine desire to make the SFVBA better when they chose me to be the new Executive Director.


As many of you may know, I have been with the SFVBA, in varying capacities, since 2001. In that time, I have gained a unique perspective on the day-to-day operations as well as the overall mission of the SFVBA. I have also established great relationships with many of our amazing members, bench officers and other members of our community.

I fully intend to leverage my experience as well as these relationships in my continual effort to build on our incredibly strong foundation and make the SFVBA an integral and enjoyable part of your practice.

As Executive Director, my objective is to increase and retain membership by improving the membership experience. I look forward to working directly with you, the members, to make the SFVBA everything you want and need it to be. As much as the law is constantly evolving and adapting to address the needs of our society, so too should the SFVBA evolve and adapt to the needs of our members. This process should never stop.

I aspire to make being a member of the SFVBA a badge of honor that enhances your professional identity

and helps you remain relevant in the legal profession. It is important that we have something to offer for everyone, from lawyers with 30 years of experience to attorneys fresh out of law school. We must keep up with evolving technology and use that technology to make it easier for members to interact with each other and the SFVBA.

Ultimately, I work for you, the members. In the coming months, I plan on making an effort to get to know you better. I want to know what member benefits you want or need the Bar to keep or introduce. I welcome your suggestions and I encourage you all to come introduce yourselves, say hello, see your new offices, and share my passion and excitement about a bigger and brighter future. 



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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 23.

Be Aware: New 2019 Laws on the Books

By Michael D. White

More than 1,200 new state laws take effect on January 1, 2019. Whether new law or revisions to existing ones, a significant number of them will directly impact the mandates covering a wide range of areas, from sexual harassment and emergency insurance coverage to family leave and community property.



THIS PAST YEAR, OUTGOING CALIFORNIA Governor Jerry Brown put his signature to 1,106 of the 1,217 pieces of legislation that arrived on his desk—that's three bills signed into law every day of the year.

Whether new law or revisions to existing ones, a significant number of them take effect January 1, 2019, and directly impact the mandates covering a wide range of areas, from sexual harassment and emergency insurance coverage to family leave and community property.

Below are summaries of a number of those bills that are now the law of the land. For more detailed information on these or other Senate or Assembly legislation, visit the California Legislative website at <http://leginfo.legislature.ca.gov>.

BUSINESS/CONTRACT LAW

Assembly Bill 1565 – Contractor Liability

This bill passed as an urgency statute to make clarifying changes to AB 1701, which was passed in 2017 and created joint liability for construction contractors and subcontractors. AB 1565 repeals the express provision that relieved direct contractors for liability for anything other than unpaid wages and fringe or other benefit payments or contributions including interest owed. For contracts entered into on or after January 1, 2019, the direct contractor must specify, in its contract with the subcontractor, what documents and information the subcontractor must provide in order to withhold a disputed payment. Amends section 218.7 of the Labor Code.

Assembly Bill 3109 – Settlement and Contract Terms

AB 3109 makes a provision in a settlement agreement or contract entered into after January 1, 2019, that requires a party to waive the right to testify in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct or alleged sexual harassment, void and unenforceable. The law applies where a party's testimony is required or requested pursuant to a court order, subpoena, or written request from an administrative agency or the legislature. AB 3109 adds Section 1670.11 to the Civil Code.

EMPLOYMENT LAW

Senate Bill 826 – Gender Composition of Boards of Directors

This new law provides for mandatory inclusion of women on corporate boards of directors. Specifically, by the end

of 2019, publicly held domestic or foreign corporations with principal executive offices in California must have a minimum of one female director on its board, by the end of 2021, these corporations must comply if its number of directors is six or more, the corporation shall have a minimum of three female directors; if its number of directors is five, the corporation shall have a minimum of two female directors; and if its number of directors is four or fewer, the corporation shall have a minimum of one female director. The new law also requires the Secretary of State to publish certain statistical information in this regard on its website and to impose fines for violations of the bill, as specified. SB 826 adds Sections 301.3 and 2115.5 to the Corporations Code.

Senate Bill 1252 – Payroll Records

Existing law already requires that employees have a right to inspect or copy their payroll records and that they must be allowed to do so within 21 days of such a request. This new law clarifies that if an employee requests a copy of the records, the employer must provide the copies, as opposed to requiring employees to copy the records themselves. This bill amends Section 226 of the Labor Code.

Senate Bill 1300 – Expansion of Liability

This omnibus bill amends California's Fair Employment and Housing Act (FEHA). The new law:

- Expands an employer's potential liability under FEHA for acts of nonemployees to all harassment (removing the "sexual" limitation)
- Prohibits an employer from requiring an employee to sign a release, as a condition of employment, raise, or bonus (but not as part of a bona fide dispute) of either FEHA claims or rights or a document prohibiting disclosure of information about unlawful acts in the workplace
- Prohibits a prevailing defendant from being awarded attorney's fees and costs unless the court finds the action was frivolous, unreasonable, or groundless when brought or that the plaintiff continued to litigate after it clearly became so
- Authorizes (but not requires) an employer to provide bystander intervention training to its employees. SB 1300 amends Sections 12940 and 12965 of, and



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.




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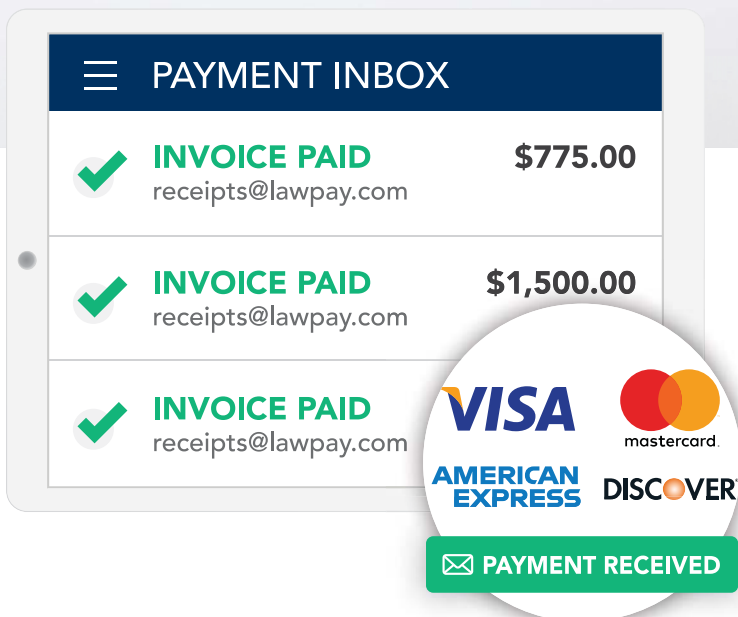
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to add Sections 12923, 12950.2, and 12964.5 to, the Government Code

Senate Bill 1412 – Criminal History Inquiries

This bill amends Labor Code section 432.7, which prevents an employers' ability to conduct arrest inquiries that did not result in conviction, a diversion program, or a conviction that has been judicially dismissed or ordered sealed and to use criminal history information in employment decisions. Existing law makes an exception for employers who are required by federal or state law to inquire into an applicant's or employee's criminal history. This amendment is intended to tighten the exception to apply only where an employer is required by law to inquire into a "particular" conviction or where an employer cannot by law hire someone with a "particular" conviction, and to make clear that employers may only consider "particular" convictions when assessing criminal history. "Particular" conviction is defined only to mean "a conviction for specific criminal conduct or a category of criminal offenses prescribed by any federal law, federal regulation or state law that contains requirements, exclusions, or both, expressly based on that specific criminal conduct or category of criminal offenses." Amends Section 432.7 of the Labor Code.

Senate Bill 1976 – Lactation Accommodation

AB 1976 strengthens existing workplace lactation accommodations. Existing law stipulates that an employer who makes a temporary lactation location shall make reasonable efforts to provide the employee with a private room or other location, in close proximity to the employee's work area, other than a toilet stall, for the employee to express milk in private. AB 1976 specifies that employers must ensure the location designated cannot be a bathroom. A limited exception was included for employers who can establish the law creates an undue hardship taking into account the size, nature or structure of the employer's business. SB 1976 amends Section 1031 of the Labor Code.

Assembly Bill 2282 – Salary History Information

In 2017, the legislature enacted the Fair Pay Act, which prohibited employers as of January 1, 2018, from asking job applicants for salary history information. However, the law left several questions unanswered. AB 2282 defines terms, making clear that an "applicant" is an individual who seeks employment and not a current employee and defining "pay scale" as a salary or hourly wage range that does not include bonuses or equity ranges. Employers may also ask about an applicant's salary expectations without running afoul of the Fair Pay Act. Assembly Bill 2282 is codified as an amendment to Labor Code §§432.3 and 1197.5.

Assembly Bill 2334 – Occupational Injuries and Illness

Existing rules require, among other things, that the Division of Occupational Safety and Health (Cal/OSHA) enforce all occupational safety and health standards and that it issue a citation for employer violations of recordkeeping requirements. Currently, Cal/OSHA is prohibited from issuing a citation more than six months after the "occurrence" of the violation. AB 2334 provides, among other things, that an "occurrence" continues until it is corrected, the Division discovers the violation, or the duty to comply with the requirement that was violated no longer exists. AB 2334 amends Sections 138.7, 3702.2 and 6317 of the Labor Code, and adds Sections 6410.1 and 6410.2 to the Labor Code.

Assembly Bill 2587 – Modification of Paid Family Leave

Paid family leave provides benefits to employees who need to take time off work to care for a seriously ill child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or registered domestic partner. Under paid family leave, benefits are also available to new parents who need time to bond with a new child entering their lives either by birth, adoption, or foster care placement. As of January 1, 2018, a seven-day waiting period was eliminated. Further, currently, an employer is permitted to require an employee to take up to two weeks of earned but unused vacation before, and as a condition of, the employee's initial receipt of benefits under paid family leave, and that portion of the vacation that does not exceed one week can be applied to the waiting period. AB 2587 deletes the application of vacation to the seven-day waiting period, consistent with the removal of the seven-day waiting period for these benefits that previously went into effect on January 1, 2018. There is otherwise no change and an employer is still permitted to require an employee take up to two weeks of vacation. AB 2587 amends Section 3303.1 of the Unemployment Insurance Code.

FAMILY LAW

Assembly Bill 2274 – Community Property

Courts are now authorized to assign sole or joint ownership of a community property pet animal taking into consideration the care of the pet animal, upon request of a party to proceedings for dissolution of marriage or for legal separation of the parties and notwithstanding other requirements for dividing the community estate of the parties. The bill also authorizes the court, also upon the request of a party, to order a party to care for the pet animal prior to the final determination of ownership. AB 2274 adds Section 2605 to the Family Code, relating to division of community property.

Regarding the Tax Deductibility of Alimony

Last year, the most comprehensive tax law in 30 years was passed by Congress and signed into law by the President.

The tax overhaul, resulting from the Tax Cuts and Jobs Act (TCJA), scraps a 75-year-old tax deduction for spousal support payments. As a result, effective January 1, alimony will no longer be tax deductible for the paying spouse and the recipient spouse will no longer be taxed on it, according to the Internal Revenue Service. Family Code section 4320, subd. (j) now requires a court to consider, among other things, “[t]he immediate and specific tax consequences to each party.” The new law does not affect anyone who signs a divorce agreement before December 31, 2018.

INSURANCE

Senate Bill 30 – Fire Coverage

The California Insurance Commissioner is now required to convene a working group to assess new and innovative investments in natural infrastructure and insurance products in light of California’s worsening fire vulnerability due to climate change. SB 30 adds Section 12922.5 to the Insurance Code, relating to insurance.

Senate Bill 824 – Declaration of Emergency Coverage

Insurers are now prohibited from cancelling or refusing to renew certain homeowners’ insurance policies for one year from the date of a declaration of emergency and they are required to report specified fire risk information to the Department of Insurance. SB 824 amends Section 675.1 of, and to add Article 10.4 (commencing with Section 929) to Chapter 1 of Part 2 of Division 1 of, the Insurance Code.

Senate Bill 917 – Proximate Cause Coverage

Insurers are now required to cover a loss resulting from a combination of disasters—landslide, mudslide, mudflow or debris flow, for example—if an insured disaster is the proximate cause of the loss or damage and would otherwise be covered. SB 917 adds Section 530.5 to the Insurance Code.

Assembly Bill 1875 – Appropriate Coverage

The Department of Insurance is now required to establish the California Home Insurance Finder on its website to connect consumers who need residential property insurance with agents and brokers to help ensure they obtain plans and coverage that suit their specific needs. AB 1875 adds Sections 10095.7 and 10103.2 to the Insurance Code.

LEGAL PROCEDURES

Senate Bill 954 – Mediation Confidentiality

This new law, except in the case of a class or representative action, requires an attorney representing a person participating in a mediation or a mediation consultation to provide his or her client, as soon as reasonably possible before the client agrees to participate in the mediation or mediation consultation, with a printed disclosure, as specified, containing the confidentiality



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restrictions related to mediation, and to obtain a printed acknowledgment signed by that client stating that he or she has read and understands the confidentiality restrictions. If an attorney is retained after an individual agrees to participate in a mediation or mediation consultation, the bill would require the attorney to comply with the printed disclosure and acknowledgment requirements as soon as reasonably possible after being retained.

The new law specifies language that would be deemed compliant with the aforementioned printed disclosure and acknowledgment requirements. It also provides that the failure of an attorney to comply with these disclosure requirements does not invalidate an agreement prepared in the course of, or pursuant to, a mediation.

The law further provides that a communication, document, or writing related to an attorney's compliance with the disclosure requirements is not confidential and may be used in an attorney disciplinary proceeding if the communication, document, or writing does not disclose anything said or done or any admission made in the course of the mediation. SB954 amends Section 1122 of, and adds Section 1129 to, the Evidence Code.

Senate Bill 1391 – Juvenile Prosecution

SB 1391 amends juvenile statutes to prevent youth 15 years or younger from being tried in adult court for any crime. Before Governor Brown signed the law, prosecutors had wide latitude to seek transfer of jurisdiction to adult court for juveniles 14 years and older charged with serious offenses. SB 1391 prevents all cases of youth 14-15 years of age from being transferred to adult criminal court for trial. SB 1391 amends Section 707 of the Welfare and Institutions Code.

Senate Bill 1421 – Police Transparency

This new law requires, notwithstanding any other law, certain peace officer or custodial officer personnel records and records relating to specified incidents, complaints, and investigations involving peace officers and custodial officers to be made available for public inspection pursuant to the California Public Records Act. The bill defines the scope of disclosable records and requires that records disclosed pursuant to this provision be redacted only to remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace officers and custodial officers, to preserve the anonymity of complainants and witnesses, or to protect confidential medical, financial, or other information in which disclosure would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct by peace officers and custodial officers, or where there is a specific, particularized reason to believe that disclosure would pose a significant danger to the

physical safety of the peace officer, custodial officer, or others. Additionally, the law authorizes redaction where, on the facts of the particular case, the public interest served by nondisclosure clearly outweighs the public interest served by disclosure and allows the delay of disclosure, as specified, for records relating to an open investigation or court proceeding, subject to certain limitations. SB 1421 amends Sections 832.7 and 832.8 of the Penal Code.

Assembly Bill 1619 – Extension of Filing Time

AB 1619 extends the time a plaintiff has to file a suit for sexual assault from three to ten years. The statute of limitations is further extended if the alleged conduct occurred on or after the victim's eighteenth birthday. AB 1619 adds Section 340.16 to the Code of Civil Procedure.

Assembly Bill 3109 – Criminal Proceeding Testimony

Waiving a party's right to testify in a criminal proceeding is now prohibited. Pursuant to the new law, any contract or settlement agreement entered into on or after January 1, 2019, that waives a party's right to testify in a legal proceeding regarding alleged criminal conduct or sexual harassment on the part of the other contracting party, or the other party's agents or employees, is void and unenforceable. The law applies to testimony whether required or requested by court order, subpoena, or administrative or legislative request. AB 3109 adds Section 1670.11 to the Civil Code.

Assembly Bill 3250 – Class Action Lawsuits

The new law revises amendments to Code of Civil Procedure section 384, which took effect immediately upon the Governor's signing Senate Bill 847 on June 27, 2018. SB 847 also added relevant Code of Civil Procedure sections 382.4 and 384.5. By virtue of SB 847, Section 384 requires a court, before the entry of a judgment—including consent judgment, decree, settlement agreement approved by the court—in a class action, to determine the total amount that will be payable to all class members, and set a date when the parties are to report to the court the total amount that was actually paid to the class. After the report is received, the court must amend the judgment to direct the defendant to pay the sum of the unpaid residue, plus interest on that sum at the legal rate of interest from the date of entry of the initial judgment (AB 3250 deletes this italicized language and replaces it with "that has accrued thereon") to nonprofit organizations or foundations to support projects that will benefit the class or similarly situated persons, or that promote the law consistent with the underlying cause of action, or to child advocacy programs, or to nonprofit organizations providing civil legal services to the indigent. An attorney for a party to a class action must notify the court if the attorney has a connection to a proposed nonparty recipient of class action settlement funds that could reasonably create the appearance of impropriety.

The court must also transmit a copy of the judgment to the Judicial Council, identifying nonparty recipients of class action settlement funds. AB 3250 repeals Code of Civil Procedure Section 630.30 and amends Business and Professions Code Section 6402.2, Civil Code Sections 51.7, 52.1, and 54.8, Code of Civil Procedure Sections 384, 1013b, 1276, 1277, and 1277.5, Health & Safety Code Section 103430, and Insurance Code Section 1861.03.

PERSONAL PROPERTY/REAL ESTATE

Assembly Bill 2173 – Abandoned Personal Property

AB 2173 increases the threshold valuation amount that triggers a commercial landlord's duty to auction off a tenant's abandoned personal property. If the landlord reasonably believes that the value of the remaining personal property is less than either \$2,500 or an amount equal to one month's rent, the landlord can dispose of the property in any manner, or retain for their own use. AB 2173 amends Sections 1993.04 and 1993.07 of the Civil Code.

Assembly Bill 2413 – Eviction Protection

AB 2413 expands protections for victims of domestic violence and other types of abuse to not face eviction or other penalties on the basis of having summoned law enforcement or 911 emergency assistance on their own behalf, or on behalf of another, to respond to incidents of violence or abuse. AB 2413 adds Section 1946.8 to the Civil Code, amends Section 1161.3 of the Code of Civil Procedure, and repeals and adds Section 53165 of the Government Code.

Assembly Bill 2219 – Third-Party Rent

AB 2219 requires a landlord to accept rent tendered by a third party. But no right of tenancy is created by acceptance, nor is a landlord required to accept housing assistance programs such as section 8. To ensure that no right of tenancy is created, the landlord may condition acceptance of rent from a third party on a signed acknowledgment that the third party is not currently a tenant. AB 2219 amends Section 1947.3 of the Civil Code.

Assembly Bill 2847 – Commercial Property: Abandonment

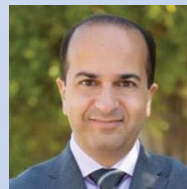
AB 2847 reduces the time a commercial landlord must wait before sending a notice of abandonment from fourteen days to three days. AB 2847 amends Sections 1946 and 1951.3 and adds Section 1951.35 to the Civil Code.

Assembly Bill 2913 – Building Permits

This new law mandates that a building permit is to remain valid for the purposes of the California Building Standards Law if the work on the site authorized by that permit is commenced within twelve months after its issuance, unless the permittee has abandoned the work authorized by the permit. The law also authorizes a permittee to request, and the building official



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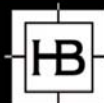
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to grant in writing, one or more extensions of time for periods of not more than 180 days per extension. It requires that the permittee request the extension in writing and demonstrate justifiable cause for the extension. AB 2913 amends Section 18938.5 of, and adds Section 18938.6 to, the Health and Safety Code.

SEXUAL HARASSMENT

Senate Bill 224 – Potential Defendants

The new law expands the category of potential defendants who can be found liable for harassment under California Civil Code Section 51.9. A defendant may be liable where he or she “holds himself out as being able to help the plaintiff establish a business, services, or professional relationship with the defendant or a third party.” The law now includes investors, elected officials, lobbyists, directors, and producers as potential defendants in a harassment suit. The Department of Fair Employment and Housing (DFEH) is now authorized to investigate such claims. SB 224 amends Section 51.9 of the Civil Code and Section 12930 and 12948 of the Government Code.

Senate Bill 820 – Settlement Agreement Confidentiality

For settlement agreements entered into on or after January 1, 2019, this new law prohibits and voids any provision that prevents the disclosure of information related to civil or administrative complaints of sexual assault, sexual harassment, and workplace harassment or discrimination based on sex. SB 820 expressly authorizes provisions that preclude the disclosure of the amount paid in settlement and protect the claimant’s identity and any fact that could reveal the identity, so long as the claimant has requested anonymity and the opposing party is not a government agency or public official. SB 820 suggests that a violation of its provisions would give rise to a cause of action for civil damages. Adds Section 1001 to the Code of Civil Procedure.

Senate Bill 3109 – Protection of Testimony

As to any contract or settlement agreement entered into on or after January 1, 2019, this new law renders void and unenforceable any provision that waives a party’s right to testify in a legal proceeding (if required or requested by court order, subpoena or administrative or legislative request) regarding criminal conduct or sexual harassment on the part of the other contracting party, or the other party’s agents or employees. SB 3109 adds Section 1670.11 to the Civil Code.

ON THE HORIZON

Senate Bill 10 – Cash Bail

Pursuant to SB 10, effective October 1, 2019, California will

become the first state in the country to completely get rid of cash bail for suspects awaiting trial. Instead of putting up money to obtain their release, people charged with a felony will go through a pre-trial risk assessment. If a judge releases them, they would be supervised by a government agency or business contracted to handle that task. People arrested for most misdemeanors will be booked and released without an assessment.


Senate Bill 439 – Juvenile Justice

SB 439 sets 12 years of age as the minimum age youth can be prosecuted in juvenile court, except a minor younger than 12 who has committed murder or violent sexual crimes. Under the new law, only youth 12 to 17 years of age can be a ward of the court. In general, the law calls for minors to be released to parents or a guardian, and for counties to use the least restrictive measures to serve and protect the minor using school, health and community based services as alternatives. SB 439 becomes law on January 1, 2020 and will amend Sections 601 and 602 of, and add Section 602.1 to, the Welfare and Institutions Code.

Senate Bill 1046 – Long-term Care Insurance

Senate Bill 1046 provides that, if a premium increases, a policyholder or certificate holder has a right to retain a policy or certificate while reducing coverage and lowering the premium, and specifies options and information that an insurer would be required to provide under those circumstances. The law will require an insurer offering a policy or certificate with an inflation protection provision to provide specified options if a policyholder or certificate holder opts to reduce coverage and provide that the premium for a reduced coverage policy or certificate shall be based on the issue age and underwriting class, as specified, and consistent with the approved rate table. It will also require an insurer to provide specified options to retain a policy or certificate while reducing coverage and lowering the premium, including reducing or eliminating the benefit adjustments provided by an inflation protection provision for a policy issued or delivered on or after January 1, 2020. The bill amends Section 10235.50 of the Insurance Code.

Assembly Bill 2138 – Professional Licensing

Many of California’s state licensing boards revoke licenses of—or deny them to—professionals who have been convicted for minor offenses. Under a new law, which takes effect July 1, 2020, licensing boards cannot revoke or deny licensing, based on arrests or convictions more than seven years old, or if the conviction has been expunged or dismissed. The law will amend, repeal, and add Sections 7.5, 480, 481, 482, 488, 493, and 11345.2 of, and adds Section 480.2 to, the Business and Professions Code. 



Test No. 123

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. Senate Bill 439 sets 15 years of age as the minimum age that youth can be prosecuted in juvenile court, except a minor younger than 14 who has committed murder or violent sexual crimes.
☐ True ☐ False
2. Under existing law, employees do not have the right to inspect or copy their payroll records.
☐ True ☐ False
3. A prevailing defendant can now be awarded attorney's fees and costs unless the court finds the action was frivolous, unreasonable, or groundless when brought or that the plaintiff continued to litigate after it clearly became so.
☐ True ☐ False
4. Courts are now authorized to take the welfare of pet animals into consideration when making decisions regarding the distribution of community property in cases of legal separation or the dissolution of a marriage.
☐ True ☐ False
5. Senate Bill 1300 limits a potential employer's potential liability under FEHA for acts of nonemployees to all harassment.
☐ True ☐ False
6. Insurers are now prohibited from cancelling or refusing to renew a homeowner's insurance policy for one year from the date of a Declaration of Emergency.
☐ True ☐ False
7. Notwithstanding any other law, certain peace officer or custodial officer personnel records and records relating to specified incidents, complaints, and investigations involving peace officers and custodial officers are to be made available for public inspection pursuant to the California Public Records Act.
☐ True ☐ False
8. Attorneys representing clients in mediation are not required to provide notice to the client regarding the confidentiality of the mediation and the inability to use various communications, even in the case of malpractice brought against the attorney.
☐ True ☐ False
9. Assembly Bill 2413 limits protections for victims of domestic violence and other types of abuse to not face eviction or other penalties on the basis of having summoned law enforcement or 911 emergency assistance on their own behalf, or on behalf of another, to respond to incidents of violence or abuse.
☐ True ☐ False
10. Assembly Bill 1565 repeals the express provision that relieved direct contractors for liability for anything other than unpaid wages and fringe or other benefit payments or contributions including interest owed.
☐ True ☐ False
11. Waiving a party's right to testify in a criminal proceeding is now prohibited.
☐ True ☐ False
12. Landlords are now required to accept rent rendered by a third party, but no right of tenancy is created by that acceptance.
☐ True ☐ False
13. A plaintiff in a sexual assault case now has up to eight years to file suit. The statute of limitations is further extended if the alleged conduct occurred on or after the victim's sixteenth birthday.
☐ True ☐ False
14. Effective October 1, 2019, California will become the first state in the nation to do away with cash bail for suspects awaiting trial.
☐ True ☐ False
15. Any settlement or contract term that requires a party to waive the right to testify in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct is now unlawful.
☐ True ☐ False
16. Building permits are now to remain valid for the purposes of the California Building Standards Law if the work on the site authorized by the permit is commenced within six months after its issuance.
☐ True ☐ False
17. Effective January 1, alimony will no longer be tax deductible for the paying spouse and the recipient spouse will no longer be taxed on it, according to the Internal Revenue Service.
☐ True ☐ False
18. Employers are now required to make "reasonable efforts" to provide a room "other than a bathroom" to accommodate employees expressing breast milk.
☐ True ☐ False
19. Insurers are now not required to cover a loss resulting from a combination of disasters—landslide, mudslide, mudflow or debris flow, for example—if an insured disaster is the proximate cause of the loss or damage and would otherwise be covered.
☐ True ☐ False
20. Existing juvenile statutes have now been amended to prevent youth 15 years or younger from being tried in adult court for any crime.
☐ True ☐ False

MCLE Answer Sheet No. 123

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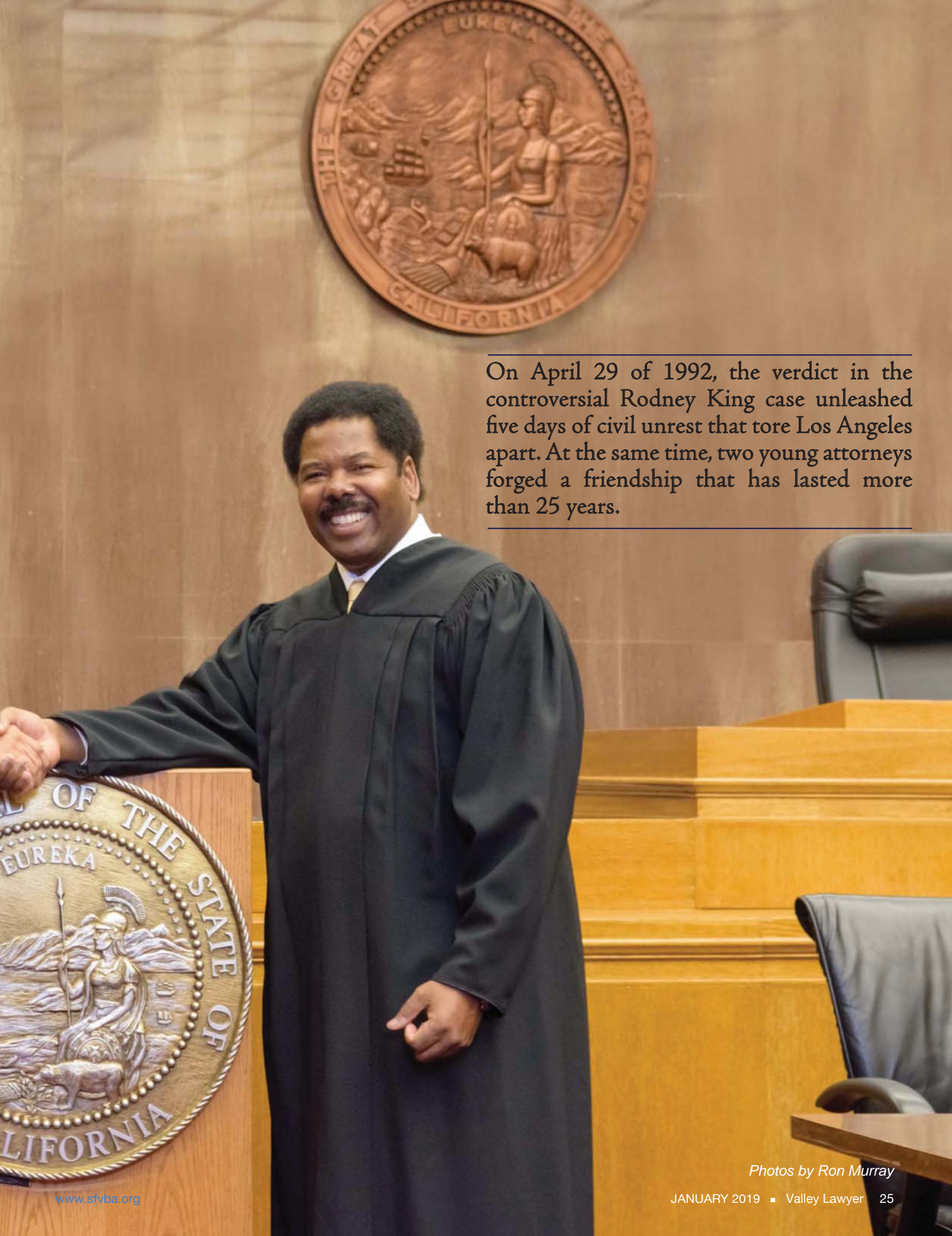
Mark your answers by checking the appropriate box. Each question only has one answer.

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Los Angeles Superior Court's New Double Team

By Michael D. White





On April 29 of 1992, the verdict in the controversial Rodney King case unleashed five days of civil unrest that tore Los Angeles apart. At the same time, two young attorneys forged a friendship that has lasted more than 25 years.

Photos by Ron Murray

IT IS SAID THAT THE BEST, MOST ENDURING friendships are borne during hard times. The spring of 1992 was such a hard time; one that unveiled a sad, violent chapter in the history of Los Angeles.

On April 29 of that year, the verdict in the contentious Rodney King case unleashed five days of civil unrest that tore the city apart. At the same time, two young attorneys forged a friendship that has lasted more than 25 years. They both had distinguished careers on the bench, which would lead them to the top positions in the Los Angeles Superior Court.

"I had no idea my path would lead to the bench," says Judge Eric C. Taylor, incoming Assistant Presiding Judge of the Los Angeles Superior Court. "After law school, I was fortunate in having some really good jobs at a couple of great firms with some great mentors. Eventually, I got a call that they were hiring at the Los Angeles County Counsel's Office."

The County Counsel provides legal advice and representation to the Board of Supervisors, county officers and departments, and various other public agencies in civil matters.

Spurred by a desire to gain more courtroom experience and "take cases all the way through from beginning to end," Judge Taylor joined the Counsel's staff. He was immediately thrown into the deep end of the legal pool when the first file that landed on his desk happened to be that of the high-profile case of *Damian "Football" Williams v. Ira Reiner*.

"They laid the case file in front of me and I said, 'Hey, this is about the riot.' I knew Kevin Brazile at the time. We were on the same team and I talked with him about strategies and what to say in the argument." That is Judge Kevin C. Brazile, incoming Presiding Judge of the Los Angeles Superior Court.

The team, it seems, has gotten back together.

"I could see from the start that Eric had the makings of being a fine attorney," says Judge Brazile, who, prior to his appointment to the Superior Court by Governor Gray Davis in December 2002, served as Deputy County Counsel for Los Angeles County and as Division Chief and Assistant County Counsel for the General Litigation division. "He showed me a lot back then, he has shown me a lot in the years since."

Both Brazile and Taylor grew up in Los Angeles, the former with dreams of becoming a pilot, the latter with the goal of becoming a doctor.

Prevented from earning his wings as a pilot because of poor eyesight, Judge Brazile turned to his brother who was working for the Los Angeles County Sheriff's Department. "He suggested that I consider becoming a lawyer, so I met some of his friends who were lawyers. I was in college at the time [at UCLA] and they encouraged me to go to law school."

While in law school, also at UCLA, Judge Brazile indirectly set his sights on the bench. "I realized that becoming a judge would be the pinnacle of my legal career. It was always in the back of my mind, but initially I just wanted to be the best lawyer I could be. Over time, when I worked at County Counsel and got to know judges and got to represent judges, then it was one of those things where after 10 years, people were saying 'you should really give it a shot. It is something you should consider and then even some judges encouraged me to get on the bench. So that was a great motivation.'"

Judge Taylor's path took him from Los Angeles' Crenshaw District to the University of Virginia Law School via a scholarship to The Cate School in northern California and a degree in Spanish literature and mathematics from Dartmouth.

Plagued with poor health during his high school years, Judge Taylor spent a considerable amount of time in the hospital. "I was in the pediatric unit quite a bit and I watched how the doctors helped people. I decided about midway through, though, that it wasn't what I wanted, so when I graduated, I did what a lot of people who grow up poor do when they don't know what they want to do...they look for a way to make a living and law school was it."

But even then, he wasn't sure that he wanted to invest his life in being a practicing attorney. "It just sounded like an interesting venture. I like to be challenged. I'd seen [the film] *The Paper Chase* and I thought that was interesting, but I didn't know a lot about it," he says. "I had some friends who were in law school and very into politics. My dad was a Freedom Rider and was arrested and jailed in Mississippi. After college, he asked





me 'what are you going to do. You're not going to be a doctor...' So he thought it was a great idea that I go to law school. So I did."

When he got to law school, he found college studies had gone a long way in preparing him for the law school experience.

"I went, and I actually loved learning about the Constitution and all sorts of law...criminal and civil

procedure...it fascinated me, and it still does," he says. "The law is a lot like math; there are answers to questions with reasoning. I love critical thinking...the research...the writing...and I find the arguments fascinating. I graduated and became a lawyer." But, he adds, "I think most lawyers wonder way down deep if they really wanted to become lawyers. Even 'til the day they retire, I think maybe they are not sure if they want to be screenwriters or something else."



Mentoring is important to Judge Taylor, who had the opportunity to clerk at the California Supreme Court for Associate Justice Allen Broussard, one of the first African-Americans to be named a judge in California and “a great mentor. Justice Broussard helped me along and advised me to do what you love.”

Judge Brazile, he says, displayed the same qualities of a mentor. “Even before I was appointed [to the bench]

20 years ago, I credited Kevin with being the person who taught me how to be a real lawyer. I still do. He was one of the top attorneys at County Counsel and is one of the best lawyers around,” says Judge Taylor.

What Judge Brazile has to teach comes from his considerable experience, both in the County Counsel’s Office, and also on the Bench.



In October 2007, Judge Brazile was assigned to the Superior Court in downtown Los Angeles. He was assigned to a general civil (unlimited) calendar where he conducted jury trials, bench trials and heard law and motion matters in cases involving employment discrimination, negligence, breach of contract, asbestos actions, and general tort actions.

On the court, he also presided over limited civil jury and bench trials, including unlawful detainer actions and misdemeanor jury trials, as well as felony jury trials. Judge Brazile also served as the site judge of the West Covina courthouse, where he handled criminal trials, felony preliminary hearings, and arraignments, and the El Monte courthouse where he handled criminal trials, arraignments and felony preliminary hearings.

While later assigned to the Glendale courthouse, he oversaw a limited jurisdiction civil calendar, performed jury trials, and, on an overflow basis, conducted unlimited jurisdiction civil jury trials, as well as both misdemeanor and felony jury trials, and felony preliminary hearings.

In September 2008, Judge Brazile was appointed to a three-year term on the Executive Board of the California Judges Association (CJA). One year later, he was elected for a one-year term by the CJA Executive Board members as one of the group's two Vice Presidents. The following year, he was appointed to a three-year term on the Judicial Council's Civil Advisory Committee and, in 2016, was elected to serve as the L.A. Superior Court's Assistant Presiding Judge under Presiding Judge, Daniel Buckley.

"As Presiding Judge, I'll be serving as an administrator and a landlord, so to speak," says Judge Brazile. "Eric and I have the responsibility of making sure the system functions properly and that our judges have

the tools they need to do their jobs. We want to let them know we're there for them."

What are some of the challenges facing the LASC over the coming years? "Our main priority is to get more courtrooms. We have a number of judicial vacancies in our courts that the new governor will need to fill," says Judge Brazile. "The focus will be on implementing new technologies such as electronic filing to speed the process along and our facilities need some serious upgrading."




Much, he adds, "orbits around the budget process...a year of plenty, followed by a year of drought. We need more to accomplish what we need to, but we also need to be flexible and do the best we can with what we've got."

Judge Taylor concurs. "Trying to reconstruct the resources that we had and were taken away during the recession is a priority and it takes some understanding of how to communicate those needs to the legislature and the governor and bring that back to the divergent communities around the county," he says.

"Bringing good qualified candidates to the bench, opening up more courthouses, ones that the public deserves. Many of our facilities are in dire need of renovation with sterile, crowded hallways with no places for people to sit."

During a visit to the county courthouse in Lancaster, Judge Taylor took a photograph that he keeps as a reminder of the work that needs to be done. "It was crowded like an old-time bus terminal. This is where children's futures are being decided and if that's a child's first impression of justice, then there is not a lot of hope. This is not what our courts are supposed to be. We have to do a lot better. We need to focus on those things and we will, and I know Judge Brazile shares my concerns."

"Kevin is one of the most talented lawyers I have ever known," says Judge Taylor. "He is a great strategist, an outstanding legal mind and we have been genuinely real friends for a long time. We have sort of blindly guided each other through a whole lot. It is great to be able to work closely with a good, dear friend and that is what he is. I am extremely proud of him."

Despite occasional differences of opinion, Judge Taylor is quick to add, "It is a valuable asset to have someone who you can bounce ideas off of. We don't necessarily agree on everything, but our differences can provide a new perspective. It is going to be a wonderful experience working with him and I am looking forward to learning a lot more from him." 

A New Beginning for the SFVBA

By Sheryl L. Mazirow



ANOTHER CHAPTER FOR THE SAN FERNANDO Valley Bar Association has begun with the relocation of its offices to a new venue in Woodland Hills.

The mission of the Association was to secure an office at the forefront of office design and representative of today's working environment, creating a space that encourages collaboration and learning.

Carlton Plaza on Ventura Boulevard met the Association's criteria.

The new headquarters provides an open landscape environment with exposed ceilings, interior glass offices, polished concrete flooring, open kitchen area, a tremendous window line featuring natural light, and state of the art LED illumination to name just a few of the new suite's outstanding characteristics.

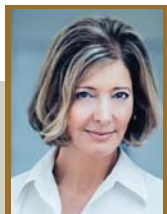
With easy freeway access and excellent parking for visitors, the new offices are ideally located on the building's first floor, adjacent to the recently renovated lobby, for ease of entry. High-end tenant improvements for the suite were

negotiated and provided solely by the landlord. With the theme of collaboration, SFVBA educational and social events may be held outside in a beautifully landscaped courtyard, with rights to usage of the space during the day as well as after business hours.

Concessions were negotiated to accommodate the Association's parking needs for members and visitors who have reason to visit the Association's offices and for the Association's after hours evening events. Extended air conditioning and heating allowances were also written into the lease.

Competitive terms in regard to rent were addressed. Beneficial occupancy was achieved and will provide an advantageous contribution to relocation costs. Hidden costs in the lease relating to operating expenses were negotiated to provide protection for the Association.

Option rights were negotiated and secured for the Association. The option provides the Bar with control of the suite beyond the initial lease term.




Sheryl L. Mazirow is President of Mazirow Commercial, Inc., a tenant representation real estate firm. Sheryl can be reached at smazirow@tenantadvisory.com.



John Marshall of Lewitt, Hackman, Shapiro, Marshall and Harlan generously gave of his time to provide legal review of the lease, while Mazirow Commercial Inc. provided tenant advisory services such as market search, the negotiation of business terms, and securing the lease for the Association.

The Association is also grateful to SFVBA Immediate Past President Alan Kassan and the SFVBA's Executive Committee for their work in finalizing the lease agreement.

After cementing the deal, Kassan remarked, "This is probably the most modern, and upon move-in, will be the most forward thinking space the Association has ever occupied." 

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Avoiding a Hack Attack Cybersecurity for Attorneys

By David Mercy

YOUR LAW OFFICE HAS BEEN hit by a hacker. Sensitive client files are out there on the open market, or perhaps every bit of data in the firm's network is locked away where it can't be accessed in time for a court deadline.

That's when the attorneys realize they are going to have to answer some very significant questions such as how to tell their clients that they now lack access to the pre-trial work it took weeks to prepare, when the court date is tomorrow, or that their subsidiaries and financial transactions are no longer confidential.

It can be hard to look confident in front of your client when you are trying to discreetly wipe all that egg from your face, especially when it could have so easily been avoided. Lawyers should not find themselves like Lucille Ball with some 'splainin' to do.

Uphold the Law, Interpret the Law, Don't Break the Law

Many law offices unwittingly engage in data security practices that can easily run afoul of the law. Just as "Ignorance of the law is no excuse," so is ignorance of the proper steps required to safeguard the data entrusted to a firm. Any business that houses its clients' Personally Identifiable Information (PII) within its network could face liability for any data breach should it be discovered by the California Department of Justice. Good intentions will not mitigate shoddy stewardship.

Any number of state entities can and will prosecute crimes concerning the theft or mishandling of digital data. Often the first to pick up the tip on a data breach is the one that sees it through. There are many eyes looking over a lawyer's shoulders, just as due diligence requires that any law firm should be looking over the shoulder

of the IT provider to whom they have entrusted their good name.

Consider that the most severe penalties for a data breach will most likely not be the fines themselves, but the malpractice suits, which will result in higher premiums, and loss of reputation in the public eye. It has been said that one should never lie to their doctor or lawyer, but who would trust a practice with their truths once the secrets of others have been leaked into the public domain?

The case of the Panama Papers is one of the most infamous of these breaches.

In 2015 an anonymous source leaked 11.5 million documents from Panamanian law firm and corporate provider Mossack Fonseca, an action with global impact. From prime ministers to business leaders to actors, a lot of activities were revealed. Whether these activities



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were questionable from a legal or ethical point of view is not the issue here, but the fact that the information escaped the digital custody of a trusted steward. With injured parties in every corner of the world, this giant repercussive snowball is only part way down the mountain. So far, Mossack and Fonseca have been detained only on charges of money laundering. So far.

Not every law office deals with internationally known figures, but personal information leaked or stolen is every bit as important to the man who runs an automotive repair shop as it is to the Prime Minister of the United Kingdom. Bear in mind that it is not only the magnitude of the Panama Papers case, but the globality of the injured parties that slows the investigation. Here, with primarily local complainants, there are few impediments to swifter action, even though in some jurisdictions that may be akin to a faster moving glacier.

What does this mean to practicing members of the Bar? It means that all attorneys would serve themselves well to investigate their own IT infrastructure to ensure that data breaches of any kind never happen.

Why is Cybersecurity Important?

Cybersecurity is more than just a firewall and a good anti-virus protection. It entails a comprehensive, ongoing regimen encompassing technology, the transfer and storage of communications, and the practices involved in negotiating the cyber world in the service of the goals of an organization.

Whether it be a law firm, hospital, government institution or the register at a Walmart check-out counter, all must operate with vigilance against ever-increasing dangers and threats from every corner of the world.

Cybersecurity, then, is simply the use of every conceivable defense designed to protect networks, computers, programs and data from attack, damage, or unauthorized access.

Cybersecurity for Law Firms and Solo Practices

The biggest threat doesn't come from cyber criminals and their unyielding efforts to sink their teeth deeply into a firm's wallet. Everybody knows they are out there, and they are going to keep at it, constantly throwing fakes and dodges, while the IT defenders play Whack-A-Mole, in an attempt to parry and thwart every move.

No, the biggest threat comes from within. It is complacency.

Too many CEOs or administrators say, "I have an IT guy. I am sure we are fine." That could be true, but in an unregulated field such as IT, anyone can hang an IT shingle on their door, meaning that the degrees of expertise in the field can vary dramatically. Hackers never sleep; they constantly seek new loopholes in the system to penetrate networks. If constant vigilance and aggressively proactive defensive measures are not standard practice, they will get in sooner or later.

The fact is, every year, one in five law firms fall victim to cybercrime, and that number is growing.¹

Despite that sobering statistic, small law firms don't believe they are valuable targets, and therefore have very loose security systems and protocols in place, if any. Law firms of all sizes are a treasure trove to hackers due to the type of client data they possess concerning personal information and business transactions, and their access to large amounts of money.

How Cybercriminals Sneak In

Social engineering and social media. What is the difference? Social engineering is the act of tricking people into giving up confidential information on their own. For example, phishing attacks from fake emails alerting you to a problem with an account such as PayPal, FedEx, etc. Social media involves people divulging just about everything about themselves on Internet sites like Facebook, where weak security measures and protocols prevail.

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Cybercriminals are relentless. They leave no stone unturned. First, they look for online employee or partner information that will help them infiltrate the system. Typically, they start with phishing, so the attack can be executed in numerous ways, from simple data theft to ransomware.

Readiness

If any law office does not have a solid check mark next to all of the line items below, they are potentially a prime target. Take note. Your firm should have:

- A unified threat management firewall
- Anti-spam filtering
- Enterprise-grade anti-virus software
- Timely Microsoft and 3rd party patches
- Mobile device management
- Secured and segregated Wi-Fi networks
- Strict user policies
- Daily cloud backups, validated on-site
- Comprehensive disaster recovery plan
- Ongoing user education and training

Steps to Protecting Your Law Firm

Whether subjected to ransomware or outright data theft, a firm or their IT provider can only do so much.

Everything can be breached by a talented cybercriminal. Bolstering defenses to the highest degree possible and the readiness for damage repair is imperative.

To ensure that your law firm is ready, these steps are strongly recommended:

- Have the IT security infrastructure assessed by an impartial third party. IT is an unregulated industry. Find out how well your network is really protected, and what level of quality the IT company or in-house person is really providing.
- Schedule regular employee training to educate how to create strong passwords and how to spot phishing emails. Fake invoice messages are the No. 1 lure.² The more phishing emails an employee has clicked, the more likely they will fall for it again... and again.³
- Launch fake attacks to test both systems and employees. If the current IT provider doesn't do it, look elsewhere. A reputable firm that knows what they are doing should be used for the task. The insights gained from their report will be invaluable.
- Make sure that data is frequently backed up to the cloud. Once ransomware hits, it is crucial to wipe all computers and servers and restore the data as soon as possible.

The Biggest Boogeyman: Ransomware

For those who have not heard of ransomware, it is by far the most prevalent and rapidly growing threat facing the world's business community.

In 2012, ransomware accounted for approximately four percent of all malware incidents. By the end of 2017, it was involved in 39 percent of all attacks, not only making it the biggest threat, but also the fastest growing. This could not happen if it was not an extremely profitable business model.⁴

Here is an example of the most common scenario: Someone in an office clicks on a link or an attachment in an email, or in a smaller number of cases, a link on a website. Immediately, an executable file is released into that workstation's computer hard drive and begins encrypting files. It quickly infiltrates the network, infecting all other workstations, the server, and encrypting every bit of data in your system. At the same time, you are locked out of the system and unable to stop the carnage.

A message appears on the monitor offering to sell you back access to your data in the form of a decryption key code, for a ransom to be paid in untraceable Bitcoins. Until you pay, all your client files are out of reach.

In context, imagine that your trial begins tomorrow, and all your pre-trial work has vanished. The only question rings like a bad, late night TV infomercial—"Now how much would you pay...?"

Too Small, Too Big, Just Right

Somewhat like *Goldilocks and the Three Bears*, there are three basic echelons of criminals and their crimes, each widely disparate from the next.

No matter the size of your business or practice, somebody is out there trying to eat the lawyer's porridge. Unfortunately, to command the attention of the most cyber thugs, the average law office is neither too big nor too small, but just right.

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Bit players attack consumers through handheld devices, predominantly iPhones, with attacks up 249 percent from 2016 in just the first quarter of last year.⁵ There have been cases like the smart thermostat of a home being locked at 95 degrees until a ransom was paid, but these are few and far between. The small timers are happy to grab a few hundred bucks from a consumer who can't stand to be cut off from his phone.

The attacks that make headline news—from global shipping giant Maersk to an almost endless list of local, state and federal governmental entities—are typically high-end ransoms, perpetrated by the elite of the cyber-crime world, but even relative small fries are not safe. In January 2017, for example, Hancock Regional Hospital in rural Greenfield, Indiana was hit and was strong-armed into paying its attacker \$45,000 in ransom.

More than 70 percent of ransomware attacks and cyber assaults target small to mid-size businesses of 10 to 200 employees.⁶ This group demographically represents most law firms. Performed by adept journeymen, the largest class of online criminals, this collection of potential victims serves as the bread and butter of cyber-crime.

Cyber thugs are a hardworking bunch beginning every day trolling through thousands of companies with phishing scams—false emails designed to look legitimate, but contain a malicious link or attachment. To them, this activity isn't vandalism or anarchy. It is big business.

The Biggest Threat Comes From Within

Like a medieval castle with high, thick walls and a moat to help keep invaders at bay, a computer network utilizes a firewall to protect itself. Both are effective, but are rendered worthless if someone inside opens the gate and lets the rampaging hordes into the fortress. There is a good reason why one of the more famous viruses is called Trojan.


Once the network is restored after a ransomware attack, it is important to examine what went wrong. Typically, it will turn out that an employee mouse-clicked a malicious link. Many companies will handle a data breach quietly if they can. Negligent stewardship of the information entrusted to a firm's care can cause its clientele to look elsewhere. But once it does happen, whether publicly known or not, it is the law practice's responsibility to the larger community, to do what it can to assist in bringing the perpetrators to justice.

Pay a Little Now or Pay a Lot Later

Staying within acceptable guidelines for protecting data is easy and not very expensive. The expense comes from negligence. In 2017, counting all factors, from monies paid in ransom to projected business lost, the average cost of each stolen or lost record as the result of a data breach was \$225. The average number of records lost or stolen was 28,512. Nobody need do the math (\$6.4 million): it is too much.⁷

Let's say the victim chooses to pay the ransom. The latest figures show that of the American companies surveyed, 29 percent never received the decryption key after paying a hefty ransom. The U.S. has it better than most; the worldwide average is 42 percent.⁸

Too many practices disregard the value of responsible state-of-the-art IT protection. They want the computers to work, and when they don't, they call someone. It is just that simple... except it isn't. The network is an information organism, subject to infection from outside, and requiring ongoing, holistic, pro-active care.

Benjamin Franklin was right. An ounce of prevention really is worth a pound of cure. 

¹ National Cyber Security Alliance.

² Symantec, 2017 Internet Security Report.

³ Verizon, 2018 Data Breach Investigations Report.


⁴ *Id.*

⁵ Kaspersky Labs, IT Threat Evolution, Q1 2017.

⁶ Symantec, 2017 Internet Security Report.

⁷ Ponemon Institute, 2017 Cost of Data Breach Study.

⁸ SentinelOne, Global Ransomware Report 2018.



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Get to Know the California Public Records Act

By Abenicio Cisneros

IF YOU LITIGATE CLAIMS AGAINST or involving public agencies in California, the California Public Records Act (CPRA), Cal. Gov't Code § 6250, et. seq., is a powerful tool to obtain records and information to strengthen your client's case.

Whether you are requesting emails sent between a supervisor and a human resources department to investigate a workplace discrimination claim, are requesting records related to previous injuries or complaints to investigate a negligence claim, or are simply collecting an agency's policies and procedures, the CPRA boasts a constitutional imperative, a broad scope, and an effective enforcement mechanism. While most trial attorneys

are aware of its existence, many are unaware of its versatility, or that, should litigation be necessary, prevailing parties are entitled to mandatory attorneys' fees.

The CPRA was enacted in 1968 and augmented via Constitutional amendment in 2009 when voters passed Proposition 59. The CPRA applies to all state and local government agencies, as well as to various quasi-public entities such as Property Owners' Associations (a.k.a. Business Improvement Districts) (Cal. Sts. & Hy Code § 36612), many charter schools, and, as of January 1, 2018, private immigration detention facilities in California. Cal. Civil Code § 1670.9. The CPRA does not apply to the legislature or the courts.

CPRA Basics

The CPRA entitles members of the public to inspect and obtain copies of public records which are not exempt from disclosure. Under the CPRA, a public record is any tangible form of representation (writing, picture, video, etc.) relating to the public business which is owned, used, or retained by the agency. See § 6252.

Thus, requestors can gain access to records as diverse as public contracts, communications (even those held on private devices and personal accounts [see *City of San Jose* (2017) 2 Cal. 5th 608.]), training records, and video and audio recordings. A request need not be for a specific record, and can instead describe the information being sought,



Oakland-based attorney **Abenicio Cisneros**' practice focuses on California Public Records Act cases. A graduate of the University of California-Davis Law School, he is a member of the National Lawyers Guild and can be reached via his website, www.CApublicrecordslaw.com. This article is reprinted with permission from the Spring 2018 issue of *The Trial Lawyer*, a publication of the San Francisco Trial Lawyers Association.

i.e. a request for “records reflecting” certain information. *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 165-166. While a requestor is wise to frame a request as specifically as possible, the agency has an affirmative duty to assist a requestor in locating responsive records and overcoming logistical challenges. § 6253.1.

Upon receiving a request, an agency must respond within ten days, absent unusual circumstances, with a determination of disclosability. § 6253(c). While there is no firm deadline for production, records must be made available “promptly.” § 6253(b). If records exist in electronic format, an agency must provide them in electronic format upon request. § 6253.9(a). With respect to charging fees for records, most agencies are limited to charging the “direct cost of duplication”—i.e., the cost of copies—though counties can arguably charge actual costs incurred in producing records. § 6253(b); 85 Ops. Cal. Atty. Gen. 225 (2002).

All public records are presumptively releasable unless either a specific statutory exemption applies, or, on balance, the public interest in nondisclosure clearly outweighs the public interest in disclosure. § 6255(a).

When an agency withholds a record subject to an exemption, it must disclose that fact. *Haynie v. Superior Court* (2001) 26 Cal. 4th 1061, 1072. The burden is on the agency to justify non-disclosure. § 6255(a). Further, since the passage of Prop 59, courts must interpret the CPRA narrowly when limiting access to records, and broadly when expanding access to records. See *Sierra Club v. Superior Court* (2013) 57 Cal. 4th 157, 166. The CPRA's exemptions are permissive rather than mandatory (§ 6253(e)), and when an agency releases a record to the public it generally waives its right to

subsequently withhold the record subject to exemption. § 6254.5.

Commonly Claimed Exemptions

While there are many exemptions to the CPRA, a few that come up often—and which are often incorrectly asserted by public agencies—include the privacy/personnel records exemption in § 6254(c), the law enforcement investigatory records exemption in § 6254(f), and the “deliberative process privilege” and “catch-all exemption” contained in § 6255(a).

The privacy/personnel records exemption in § 6254(c) permits agencies to withhold “[p]ersonnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.” Agencies cite this exemption to withhold everything from employment contracts, to records of discipline, to complaints against public officials. This exemption, however, is far from absolute. For example, it squarely applies to information of a highly personal nature which individuals must submit to the government, such as social security numbers.

However, much information is releasable subject to the required balancing test, such as employment contracts, job descriptions, and employee pay. See, e.g., *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 777. Additionally, § 6254(c) does little to protect credible complaints of bad behavior against public officials. See *Caldecott v. Superior Court* (2015) 243 Cal.App.4th 212.

The law enforcement investigatory records exemption in § 6254(f) exempts, generally, records collected pursuant to an investigation as well as records legitimately held as part of an investigatory file. This exemption is broad and does not expire when an investigation is complete. See *Williams*

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v. Superior Court (1993) 5 Cal. 4th 337. It exempts materials such as police reports, some body camera footage, and notes from certain police interviews.

While the exemption is far-reaching, it, too, is not absolute. The legislature created an “exception to the exemption” for various categories of information contained within investigatory records, such as the name of arrestees and factual circumstances surrounding an arrest, and the time, substance, and locations of complaints. § 6254(f)(1)-(2)(a).

Additionally, records are not investigatory merely because law enforcement collected them. See *ACLU of Southern California v. Superior Court* (2017) 3 Cal. 5th 1032. Nor does a record become investigatory merely because it is placed in a file labeled “investigatory.” See *Uribe v. Howie* (1971) 19 Cal. App.3d 194.

Section 6255(a) includes both the deliberative process privilege and the “catch-all” balancing exemption.

The deliberative process privilege was grafted onto the CPRA by the courts and the key question in evaluating the privilege is “whether the disclosure of materials would expose an agency’s decisionmaking process in such a way as to discourage candid discussion within the agency and thereby undermine the agency’s ability to perform its functions.” *Times Mirror Co. v. Superior Court* (1991) 53 Cal. 3d 1325, 1342.

Courts have applied this privilege in a broad range of contexts—e.g. to protect the identities of applicants to an appointed position, to protect the identities of stakeholders who provided input to regulators under assurances of confidentiality, and, in the *Times Mirror* case, to protect disclosure of the Governor’s appointment schedules, calendars, and notes for a five-year period.

While the privilege can be difficult to overcome, it is always subject to balancing, so making a narrow request with a strong articulation of the public interest can be helpful. For example, in *Times Mirror*, while the Court held that the Governor’s entire calendar could be withheld, it allowed that the balancing of interests regarding a more focused and limited request may have come out differently.

The “catch-all” balancing test permits an agency to withhold records when “on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure.” § 6255(a).

While agencies claim this exemption in many contexts, one that often arises is an agency’s assertion that a request is unduly burdensome.

Although burden to the agency is a factor courts can consider, such an assertion is often specious. With respect to any assertion of § 6255(a), keep in mind the agency has the burden to show a “clear overbalance on the side of confidentiality,” (*Michaelis, Montanari & Johnson v. Superior Court* (2006) 38 Cal. 4th 1065, 1071) and that, post-Prop 59, an agency’s argument for nondisclosure must pass constitutional muster.

Enforcement

The legislature and courts have worked in tandem to ensure the CPRA is bolstered by a strong enforceability framework. CPRA enforcement litigation is marked by three beneficial elements: a quick and straightforward Petition for Writ process (§ 6258), mandatory attorneys’ fees for prevailing petitioners (with an accompanying low risk of a fee award to the agency) (§ 6259(d)), and the application of the catalyst theory in determining whether a petitioner prevails under the CPRA. See *Belth*

v. Garamendi (1991) 232 Cal.App.3d 896, 901.

In the CPRA context, the catalyst theory holds generally that a petitioner prevails if the lawsuit motivates the agency’s disclosure of records, whether or not a judicial order is obtained. Thus, agencies cannot escape attorneys’ fee liability by simply producing documents after being served notice of a lawsuit.

Additionally, petitioners need not obtain full relief to be entitled to attorneys’ fees, because a petitioner prevails if the action causes the disclosure of only some of the requested records, so long as the disclosure is not minimal or insignificant. *Los Angeles Times v. Alameda Corridor Transportation Authority* (2001) 88 Cal.App.4th 1381, 1391-1392.


Partial success does not require apportionment of CPRA fees. *Bernardi v. County of Monterey* (2008) 167 Cal. App.4th 1379, 1397. And obtaining declaratory relief that an agency denied access to records can give rise to a fee award, even if the suit does not result in the disclosure of additional records. *Community Youth Athletic Center v. City of National City* (2013) 220 Cal.App.4th 1385, 1446-1447.

Taken together, these provisions go far to make the CPRA enforceable and, thus, to effectuate the Act’s promise of transparency.

Conclusion

The CPRA is a powerful statute that is often underutilized by trial attorneys whose litigation is against or involving public agencies.

Whether you plan on using it to investigate a potential case or to augment traditional discovery, the CPRA is an accessible and inexpensive information gathering tool with a strong enforcement mechanism.

May it serve you and your clients well. 

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.



Alyson Decker Litigator and Trial Attorney Lowthorp Richards Oxnard

Born and raised in Southern California, Alyson Decker made the decision to become an attorney after she "fell in love" with the judicial branch of government while participating in a high school summer program in Washington D.C.

"After that summer I knew I wanted to go to law school and I changed tracks from looking at art schools to looking at more traditional liberal arts undergraduate programs," she recalls.

Graduating *magna cum laude* from Brandeis University in 2004, she obtained her law degree three years later from the University of Southern California, while serving as managing editor of the *Southern California Interdisciplinary Law Journal* and externing for former Central District Federal Magistrate Judge Stephen Hillman.

Decker worked at several well-known boutique and national firms in the Los Angeles County area prior to moving to Ventura County and joining the Oxnard-based firm of Lowthorp, Richards, McMillan, Miller & Templeman earlier this year.

"I handle all sorts of civil litigation matters but my focus now is on employment litigation and entertainment and high profile cases," she says. "In my employment litigation practice I do two pretty different things. First, I represent employees who have been harassed, discriminated against, or wrongfully terminated. Second, I counsel employers about how to avoid litigation and proactively resolve complaints of discrimination and harassment."

What does she like most about her particular area of practice? "I get to really help people," says Decker. "Someone who has been harassed or discriminated against because of their gender or race is often going through one of the most difficult times in their lives and I can help them be heard and get justice. And the entertainment and high profile cases are always interesting because there are so many components other than just the law to consider."

The recipient of several awards for her legal work, including a 2013 Commendation for Outstanding Legal Prowess from the City of Lancaster, Decker has also been published multiple times in *Valley Lawyer Magazine* and the *Daily Journal* and has written several legal book reviews for the Los Angeles Review of Books.

"I have always loved researching and writing, whether it be legal, historical, or an analysis of literature or art," she says. "I was always the person who would choose an essay over an exam in both college and law school."

Decker currently resides in Thousand Oaks with her husband. Her pastimes—running ("I'm not very fast but I only started running a few years ago"); playing roller derby ("Though it's harder and harder to find time for that with work"); cooking; visiting local breweries; traveling ("When I can get away from work"); "and playing with my ultra-spoiled cat."



Sassoon Sales Attorney at Law Beverly Hills

Sassoon Sales' winding path to a 44-year career as a Southern California-based attorney, almost literally, circled the globe.

Born and raised in Calcutta of Middle-Eastern Jewish descent, Sales attended a Christian Brothers boarding school and a Jesuit college in India before he traveled to England and law school at the University of London via the Suez Canal and the Straits of Gibraltar.

Graduating in 1967, Sales made the choice not to practice law in England because "it wouldn't have worked out," he says. "I simply didn't have the connections that were necessary at the time to get a position as a barrister. That and the fact that I had relatives in Southern California helped in making the decision to head to America."

A spell in New York City spurred Sales to head West even quicker than originally planned. "I had grown up with impressions of the U.S. that I'd gained from *Life* magazine. I discovered that New York City wasn't the real America and that Southern California was...and is."

Passing the California Bar exam in 1974, Sales set up shop as a criminal defense lawyer. Two years into his practice, his first-ever jury trial involved defending a man accused of killing his brother-in-law.

On first meeting his attorney, the man greeted Sales with "Oh, I was expecting somebody older," to which Sales responded, "Don't worry about it. A young fool only becomes an old fool."

"After a couple of years I realized that criminal defense wasn't trial lawyering, but funneling the chronically criminal through the assembly line," says Sales. Joining an insurance defense firm in Los Angeles, the experience proved to be a disappointment that dragged on for five years.

"I felt like a square peg in a round hole. I just could not get used to the slow, methodical, deliberative, 'by committee' movement of the insurance industry," he says. "I decided that I was meant to be a plaintiff's trial lawyer. And that is what I have been for the past 35 years, specializing in insurance bad faith litigation and some business litigation as well."

In the wake of Hurricane Katrina, Sales maintained an office in New Orleans at the Hurricane Legal Center, which handled approximately 1,500 claims resulting from the disaster from Hurricane Katrina, as well as several thousand claims arising from the contaminated trailers provided the victims of the storm.

Sales and his wife of 34 years have a daughter, a Los Angeles-based fashion designer, and a son who works in finance and investing in New York City. "I have no hobbies but enjoy my work, so my default setting is my work," he says. "I plan to die with my boots on."

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A New Chapter

THE ATTORNEY REFERRAL Service and the San Fernando Valley Bar Association have opened a new chapter in their close relationship and not just because of the new year.

Elizabeth Post has moved on to a new position in New York after almost 25 years as Executive Director of the SFVBA. We will miss her but we wish her the best in her new endeavor.

In her place, Rosie Soto Cohen, previous SFVBA Director of Public Service, has been named to serve as Executive Director of the 92-year old Association. Her promotion is well earned and we are sure Rosie will bring her extensive professional experience to the position and carry on Elizabeth's legacy.

Additionally, the Bar and the ARS have found a new home at the Carlton Plaza in Woodland Hills. The change in venue will further expand our reach and enhance our ability to provide the Valley community with access to professional legal services.

Our renewed marketing campaign has proven very effective in augmenting the number of monthly referrals we handle. A very successful part of that effort includes our stationing an ARS consultant at the Van Nuys courthouse every Tuesday to provide a reliable source for referrals.

**CATHERINE
CARBALLO-MERINO**
ARS Referral Consultant



catherine@sfvba.org

The ARS also observed Pro Bono Week by hosting another Lawyers at the Library event at the North Hollywood Library in cooperation with the LA Law Library. The event was a tremendous success with close to 40 people receiving much needed legal advice with several ARS attorneys on hand.


Our sincere thanks go to the following attorneys for volunteering—Richard T. Miller, David G. Jones, Robin E. Paley, Artemio Santiago, Stanley Silver, Jay J.

Tanenbaum, Sevag Demirjian, and Annette R. Kulik.

Lastly, we would like to thank the North Hollywood library staff and LA Law Library Managing Librarian Janine Liebert

and Director of Patron Services Malinda Muller for their help in coordinating and promoting the program. We would also like to thank the entire ARS panel membership for their hard work and for their continued participation in the program.

Several of our members have also been featured in the new Member of the Week section on the SFVBA's website. Their stories are truly inspirational and we plan to spotlight more of the ARS' panel members in the future.

If you are an ARS panel member and would like to be interviewed for either the Member of the Week section or the monthly ARS column in the *Valley Lawyer*, please contact catherine@sfvba.org. 

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2. One bench officer and two attorneys will moderate a Socratic conversation on constitutional questions over the course of three class sessions between February and April 2019. Students will have the opportunity to participate in an Essay Contest and receive a Scholarship award following their participation in the program.

EDUCATING OUR KIDS BEGINS WITH YOU

Attention SFVBA Members!
The Valley Community Legal Foundation of the SFVBA needs YOU to work with Judges and High School Students in the Classroom

“The Constitution and Me”
True Threats v. Pure Speech: Drawing the Line between Safety and Freedom

CONTACT:

Kira S. Masteller at kmasteller@lewitthackman.com to volunteer to share your legal experience. Training will be provided.

Whether or not you can volunteer, please consider making a tax deductible donation to VCLCF to support this program and other scholarship programs presented throughout the year to San Fernando Valley High School Students. Please use the accompanying pledge card or visit www.thevclf.org.



Teach Our Children Well

Mark S. Shipow
President



mshipow@socal.rr.com

MINE IS A FAMILY OF educators. My father earned a doctorate in education from UCLA, and taught both sixth grade (which was in elementary school at the time) and college extension courses. My wife teaches first grade. My sister and several other relatives are or have been teachers. So I suppose it's not surprising that I have an affinity for education. I view teaching our children as one of our most important duties—individually as parents, and collectively as citizens.

Therefore, one of my goals as President of the VCLF is to encourage our organization to be as active as possible in supporting education. I want us to expand our scholarship program and develop programs that will encourage and help educate Valley kids. For the past two years, we have sponsored student attendance at the play *Defamation*. This year, we are going even further.

The VCLF Education Committee, formed under our Immediate Past President Laurence Kaldor, is actively working to implement our education-related goals. The Committee—headed by co-chairs Anngel Benoun and Judge Firdaus Dordi and actively supported by several VCLF Board members, including Kira Masteller, Joy Kraft Miles, and Judge Virginia

Keeny—is developing a constitutional law program to present to local high schools.

The program is titled “The Constitution and Me.” This year’s topic is True Threats v. Pure Speech: Drawing the Line Between Safety and Freedom. The Program will be presented between this February and April with the cooperation of the Los Angeles Unified School District and several schools, including, a number in the Valley.

The goal of the Program is to foster conversation on constitutional questions that affect students directly. Toward that end, a fact pattern is being developed involving accusations of cheating on an exam by way of an anonymous note that later is posted on an unofficial school Instagram account. Multiple student postings follow, some of which contain photos and comments that might—or might not—be considered threatening to students. Arrests, criminal proceedings and suspensions follow, which are the subject of litigation that wends its way to the U.S. Supreme Court.

Using this fact pattern, students will have the opportunity to participate in a Socratic conversation on constitutional issues of First Amendment rights, as potentially

qualified by the use of threatening language and visuals, all in the context of the use of social media. There are not many subjects that are more timely and of more interest and concern to our students and our society as a whole.

The students’ exploration of these issues will be guided by teams of one judge and two attorneys over the course of three class sessions of about 50 minutes each. The sessions will encourage free thinking amongst the students and assist them in identifying the issues presented, foster discussion about the correctness of existing law, and promote critical thinking in applying the law to the facts. The students will then identify justices, counsel and jurors from among their peers to conduct an abbreviated moot court argument of the case before the “Supreme Court” and before a jury—the latter to enable more students to be involved in the decision-making process. The justices and jurors will deliberate and reach a verdict, followed by a discussion of the outcome.

If our experience with race and gender discussions that were prompted by our presentation of *Defamation: The Play* is any indication, there will be a lively exchange of views, and the students

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.



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will come away with a deeper appreciation of both the privileges and obligations that serve as the hallmarks of our Constitutional democracy.

Students who participate in the Program will be eligible to apply for VCLF scholarships by submitting an essay on what they learned from the Program. The VCLF Scholarship Committee will prepare the prompts, set the criteria, review the submissions, and determine the recipients of the scholarships, which we expect to provide an additional incentive for active student participation.

In order for The Constitution and Me program to be a success, the VCLF needs your help. First, we need volunteers—both judicial officers and attorneys—to join the teams leading the three-session discussions with the students. We will provide the training for team members.

In addition, we need donations to pay for the incidental costs associated with the Program and fund the scholarships. We plan to set up scholarship funds in the name of donors and hope this will be especially appealing to graduates of Valley high schools. You can have your name attached to a scholarship awarded to students of your alma mater. What better way to help our students and create a legacy?

Additional information will be forthcoming about volunteering to join the discussion teams and scholarship donation opportunities. In the meantime, please contact me at mshipow@socal.rr.com or visit thevclf.org to get involved, donate, or obtain more information on the VCLF and its service to the community. 

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