VALLEY LAWYER

JUNE 2019 • $5

A Publication of the San Fernando Valley Bar Association

It Really Is a Small World After All

New Harassment Laws

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VALLEY LAWYER

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Open Space and a Collaborative Environment

YI SUN KIM
SFVBA President

ykim@gblawllp.com

ON MAY 7, 2019, SFVBA hosted a Candidates Forum for those running in the Los Angeles City Council District 12 Special Election, which directly impacts the Valley communities of Chatsworth, Granada Hills, Northridge, Porter Ranch, and neighboring areas.

This type of community event had never been held in our offices before and was executed perfectly due to the exceptional efforts of SFVBA Trustees Kyle Ellis and Matthew Breddan.

Three years ago, in February 2016, SFVBA coordinated a Legal Town Hall for residents and businesses affected by the Aliso Canyon Gas Leak. That event was held in cooperation with then District 12 Councilmember Mitchell Englander's office at Shepherd of the Hills Church in Porter Ranch.

Englander resigned his post last December and it is imperative that SFVBA remain engaged with whomever will succeed him. The Bar can thus continue to provide the necessary resources our community needs in times of emergency or otherwise.

The Candidates Forum perfectly exemplified why SFVBA moved into its new Woodland Hills offices. The open space and collaborative environment accommodated a large number of people, who then became familiar with our organization and what we do. Attendees at the Forum also learned about the Attorney Referral Service, a vital program sponsor, and the experienced attorneys who serve on its panel.

In keeping with this momentum, SFVBA has planned several exciting summer programs that are entirely free to its members and centered on providing the most benefits to our members.

On Friday, June 14, 2019, SFVBA will host its annual Membership Appreciation Party—a lively evening of casual conversation, dinner, drinks, gifts and raffle prizes in the spacious courtyard of the Bar's new office complex.

In addition, the Bar is planning a second summer event catered to its members and their needs—the SFVBA Summer Party/Meet the Experts get-together.

Organized by Trustee Christopher Warne, the first-time event will be held on Thursday, July 18, 2019 at the Woodland Hills Country Club. Not only will attorney members receive complimentary appetizers, dinner, dessert and drinks, but they will have the opportunity to meet a variety of expert witnesses from diverse areas of interest that could be particularly indispensable in their practice, as well as the chance to network and share their expertise with other attorneys and non-legal professionals.

This unique event will also offer the opportunity to sponsor a first-class Cocktail/Cigar Bar, as well as tiered-level sponsorships opportunities at $1500 and $750 each. Don't miss out on this exceptional event! For more information on sponsorships, contact events@sfvba.org or call (818) 227-0495.

Broadened Horizons, Opened Minds

MICHAEL D. WHITE
SFVBA Editor

michael@sfvba.org

ONCE UPON A TIME, DURING the so-called Gilded Age, while attending a fashionable dinner party, a wealthy New York City matron was asked what her impressions were of Paris. Had she ever been? "Why certainly not," she sniffed with unruffled self-assurance.

Startled at such an impertinence, she intoned with patrician snobbery—"Why…why…I've never even been to Boston. And why should I. Everything I require is right here."

Genuinely sad, but not nearly as sad as those who, for whatever reason, would have jumped at the chance to travel and study abroad, but never had the opportunity or had circumstances beyond their control keep them anchored in port with sails furled.

In doing the leg work for this month's cover article I was privileged to speak with ten SFVBA member attorneys who—some during law school, some before, others after—experienced the thrill of being immersed in a new learning environment albeit as an Indian- or Iranian-educated immigrant to the U.S. or as a young American exchange student deposited in Hong Kong, Italy, Scotland or Israel.

Motivated by a sense of adventure, a need to learn more about one's cultural roots, or a quest for professional opportunity, each and every one, whether they realized it at the time or not, was broadening their personal world views in ways that would impact them for the rest of their lives.

"I never thought I'd ever get to travel overseas, let alone spend a year in Europe," one told me." It was a fantastic time and I learned as much about myself as I did about the people I met and the experiences I had."

That was the 'golden thread' that connected everyone I interviewed—a genuine gratitude for the life experience and the smiles in their voices as they mined the memories of discovering first-hand that the world is indeed a classroom well worth occupying.

Thanks to attorney Lawrence Noble for addressing the highly controversial topic of self-defense, when it's legal and when it isn't in such a precise and candid fashion and to Chris Hamilton for his article on the ins-and-outs of forensic accounting. Kudos also go out to Nicole Kamm & Candace Gottlieb-Clark for their excellent, highly detailed MCLE article on California Harassment Laws.

On May 7, SFVBA hosted a host a Candidates Forum for the candidates running in the upcoming special election for a seat on the Los Angeles City Council to represent the Valley's Council District 12. The event was very well attended as is laid out in attorney Kyle M. Ellis' detailed account here.

Also, last, but certainly not least, it's good to have SFVBA's sister organization, the Santa Clarita Valley Bar Association, reprise its monthly *Valley Lawyer* column.

All in all, a good read that we hope you enjoy.

CALENDAR

JUNE 2019

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	**3** VBN Valley Bar Network **5:30 PM**	4	5	Membership & Marketing Committee **6** **6:00 PM** **SFVBA OFFICES**	7	8
9	10	Probate & Estate Planning Section **11** A View from the Bench **12:00 NOON** **MONTEREY AT ENCINO RESTAURANT** The must attend meeting of the year, the Probate Bench Officers update the group. (1 MCLE Hour) Board of Trustees **6:00 PM** **SFVBA OFFICES**	12	13	**14** Membership Appreciation Party **6:00 PM** **SFVBA COMPLEX COURTYARD** See ad on page 11	15
16 Happy Father's Day	17	Taxation Law Section **18** Foreign Investors in US Real Estate **12:00 NOON** **SFVBA OFFICES** Kevin Moore will discuss the optimal tax efficient strategies through which foreign investors can invest in US real estate and discuss income, estate and gift taxes. (1 MCLE Hour)	VCLF Board Meeting **19** **6:00 PM** **SFVBA OFFICES**	20	21	22
23	Family Law Section **24** Grandparents' Rights **5:30 PM** **MONTEREY AT ENCINO RESTAURANT** SPEAKERS: Judge Jonathan L. Rosenbloom; Stuart D. Zimring, CELA. Approved for Family Law Legal Specialization. (1.5 MCLE Hours)	Business Law Section **25** FEMA and Landlord-Tenant Issues After a Disaster **12:00 NOON** **SFVBA OFFICES** Sponsored by NLSLA Neighborhood Legal Services of Los Angeles County Speaker: Lena Silver, Associate Director of Litigation & Policy Advocacy, NLSLA Free to SFVBA members. (1 MCLE Hour)	26	**27** DINNER AT MY PLACE 6:30 PM Topanga 	Inclusion & Diversity Committee **28** **8:15 AM** **SFVBA OFFICES**	29
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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.

SUN	MON	TUE	WED	THU	FRI	SAT
	1	2	3	SFVBA OFFICES CLOSED 4 Happy 4th!	5	6
7	8	Board of Trustees 9 6:00 PM SFVBA OFFICE	10	11	12	13
14	15	16	17	SAN FERNANDO VALLEY BAR ASSOCIATION INAUGURAL Summer PARTY 18 MEET THE EXPERTS See ad on page 21	19	20
21	22	23	24	DINNER AT MY PLACE 25 6:30 PM | Calabasas 	26	27
28	29	30	31			

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 20.

New Harassment Laws: Balancing Protecting Employees and Burdening Employers

By Nicole Kamm and Candice Gottlieb-Clark

The intent of the California Legislature, now incorporated into the Government Code, will undoubtedly affect how courts interpret the provisions of amended law and also enable employees greater opportunity to bring lawsuits, defeat summary judgment motions, and make it more difficult for employers to prevail on a wider range of harassment and discrimination claims.

LARGELY IN RESPONSE TO THE WIDESPREAD *#MeToo* movement, Californians saw the passage of several bills intended to address workplace harassment last fall.

Among the most significant was Senate Bill 1300, which, among other things, mandated several changes in the law with regard to litigating sexual harassment claims under California's Fair Employment and Housing Act (FEHA).

As a result, employers are advised to take note of these changes as they affect how complaints should be addressed, possible defenses an employer may assert, and how often innocent interactions can escalate into legal claims.

Difficult Defense

SB 1300 adds Section 12923 to the existing Government Code. According to the bill's sponsor, State Senator Hannah-Beth Jackson (D-19th District), "The *#MeToo* movement raised awareness of pervasive sexual harassment in our workplaces, and now it's time to act. SB 1300 will close the loopholes in law that have allowed this inappropriate and unacceptable behavior to persist."[1]

Making it more difficult for employers to defend claims, SB 1300 expands the types of conduct that can constitute unlawful harassment under the "severe or pervasive" standard.

First, the bill explicitly rejects the decision of *Brooks v. City of San Mateo*.[2]

In *Brooks*, the court noted actionable harassment or discrimination must be sufficiently "severe or pervasive" to alter an employee's working conditions and create an abusive working environment.[3] The court found that a single incident in which a coworker inappropriately touched the plaintiff over a period of five minutes did not rise to the level of "severe or pervasive" harassment violating Title VII, given that the employer promptly removed the employee from the workplace (and where the plaintiff suffered no physical injuries and did not allege she sought or required hospitalization).[4]

In rejecting *Brooks*, the legislature stated that for purposes of FEHA, as amended, a single incident of harassment may be sufficient to create a hostile work environment "if the conduct unreasonably interferes with the employee's work performance or creates an intimidating, hostile, or offensive work environment."[5]

Further, the bill reaffirms Justice Ruth Bader Ginsburg's 1993 concurrence in *Harris v. Forklift Systems*.[6] In that case, she commented that, "In a workplace harassment suit the plaintiff need not prove that his or her tangible productivity has declined as a result of the harassment. Rather it suffices to provide that a reasonable person subjected to the discriminatory conduct would find, as the plaintiff did, that the harassment so altered working conditions as to make it more difficult to do the job."[7]

In addition, the legislature affirmed another impactful decision—*Reid v. Google, Inc*.[8]

In that case, the legislature explicitly agreed with *Reid* that even 'stray remarks' (those not directly related to an employment decision or made by a non-decision-maker), while not alone being sufficient to find discrimination, can be deemed relevant, circumstantial evidence of discrimination, considering all the circumstances.[9]

Further, the bill states the legal standard for sexual harassment should not vary by type of workplace, noting that "courts should only consider the nature of the workplace when engaging in or witnessing prurient conduct and commentary is integral to the performance of job duties."

Finally, of significant concern for employers, SB 1300 states harassment cases are rarely appropriate for disposition on summary judgment, affirming the decision in *Nazir v. United Airlines, Inc.*, noting hostile work environment cases involve issues "not determinable on paper."[10]

The legislature's intent, now incorporated into the state's Government Code, will undoubtedly affect how courts interpret the provisions of the amended law.

The new law also will provide employees greater opportunity to bring lawsuits, defeat summary judgment motions, and make it more difficult for employers to prevail on a wider range of harassment and discrimination claims.

Addressing All Forms of Harassment

In addition to the above, which is significant in and of itself, there are other provisions in SB 1300 that impact employers.

Previously, FEHA required employers to take immediate and appropriate steps to prevent and correct sexual harassment by certain non-employees, for example, customers, contractors, vendors, etc. of employees, applicants, unpaid interns or volunteers, or persons providing services under a contract in the workplace. Employers must take these steps if they or their agents or supervisors, know or should have known, of the sexually harassing conduct.

In ruling on these cases, courts consider the extent of the employer's control, as well as any other legal responsibility the employer may have related to the non-employee's conduct.

Nicole Kamm is an employment defense attorney at Lewitt Hackman in Encino and may be reached at nkamm@lewitthackman.com. **Candice Gottlieb-Clark** is the President and Founder of Dynamic Team Solutions, a Los Angeles based consulting firm dedicated to building healthy leaders and collaborative teams. She can be reached at Candice@DynamicTeamSolutions.org.

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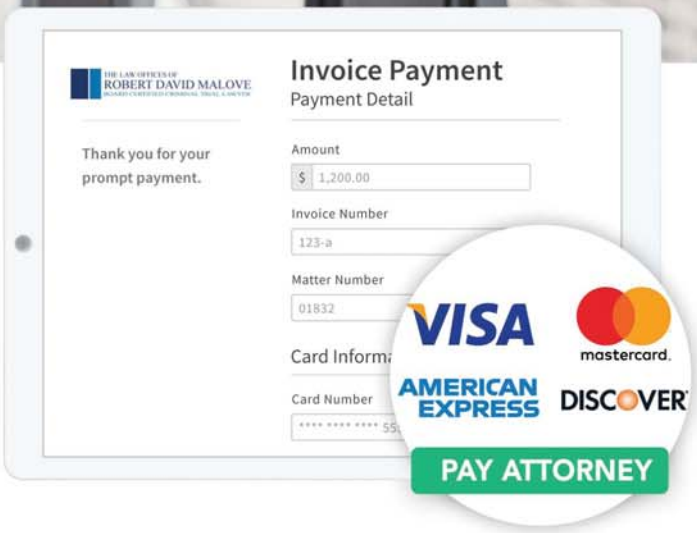

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SB 1300 amends FEHA to provide that employers must take such reasonable steps for any type of harassment by those non-employees, not just sexual harassment.[11]

In other words, SB 1300 removes the word "sexual" from the language of the statute to clarify that all forms of harassment are covered.

Prohibitions and Denials

In response to what has been viewed as an effort to nullify or work around various anti-harassment and discrimination laws, SB 1300 also prohibits employers from requiring employees, as a condition of employment or continued employment, or in exchange for a bonus or raise, to release all FEHA claims or rights. It also prohibits the signing of a non-disparage agreement or other document purporting to deny the employee the right to disclose information about any unlawful workplace acts, including sexual harassment.[12]

The prohibited "release of a claim or right" includes requiring an individual to sign a statement that the individual does not have a claim or injury against the employer. It also includes the release of a right to file and pursue a civil action or complaint with any state agency, public prosecutor, law enforcement agency, or any court or other governmental entity.[13]

The restriction does not, however, apply to a negotiated settlement to resolve an underlying claim filed in court, before an administrative agency, alternative dispute resolution forum, or through an employer's internal complaint process, that:

- Is voluntary, deliberate and informed;
- Provides consideration of value to the employee; and
- Is accompanied with a notice to the employee of an opportunity to retain an attorney, or is made when the employee is represented by an attorney.[14]

Limits on Awards of Fees and Costs

Previously, FEHA permitted a court to award prevailing employer defendants their reasonable attorneys' fees and costs, including expert witness fees, at the court's discretion.

SB 1300 amends the law to permit courts to award prevailing employer defendants fees and costs only if the court finds the action "frivolous, unreasonable, or groundless when brought, or the employee continued to litigate after it clearly became so, regardless of any settlement offer."[15]

As a result, employees and their attorneys have greater incentive to file and maintain suits against employers since there is even less likelihood they will be held liable for a prevailing defendant's fees.

Ambiguous or Inconsistent Legislative Intent

Complicating matters further for employers, the statements of legislative intent as detailed in Section 12923 of the Cal. Government Code are stated broadly in favor of protecting employees' rights.

In most cases, the law does not reinforce such legislative pronouncements in this manner—a fact which may well create additional confusion to be settled in the courts.

For example, as discussed above, the legislature rejected the *Brooks* holding of "severe or pervasive" conduct for purposes of the amended FEHA statute, stating that a single incident of harassing conduct may be sufficient to create a hostile work environment if the conduct unreasonably interfered with the employee's work performance or created an intimidating, hostile, or offensive work environment.

However, the legislature did not clarify this standard for conduct constituting actionable harassment under FEHA in the statute, apart from the statement of legislative intent.

While further guidance would have provided employers and employees alike more certainty in determining actionable harassment, the legislature did not include specific language in the statute. Courts may be influenced by legislative intent, but must ultimately decide issues based on the language of the law as written.

This is just one example of the often ambiguous and conflicting legislative intent.

Ultimately, it is employers and employees who must litigate these ambiguities and there are new and re-proposed bills in this area pending in the current term that, for example, extend the statute of limitations to file claims, etc.

Quirky Colleagues or Claim Risks?

Digesting the above, let us explore two workplace scenarios—illustrated with pseudonyms—and the often thin line between what can be considered an "internal" matter, and what may escalate to become a legal claim.

First, the 'Aggressive Sales Manager.'

A pharmaceutical company employs a successful sales manager, Leanne, a key producer exceptional at 'closing the sale'.

However, her aggressive approach to sales is often the same behavior she displays in the workplace and to members of her own team. She demands excellence and often demeans those who don't meet her standards.

While her behavior does not appear to be focused on any protected characteristic or indeed any characteristic other than closing the sale, she certainly ruffles a lot of feathers, and though no formal complaints have been lodged, several of her co-workers (and certainly all members of her team) are aware of her brusque behavior.

One day Carl, a member of Leanne's team, pushes back. He complains that he feels she is singling him out for especially harsh treatment. Leanne points out his poor sales in the prior quarter and tells Carl to "suck it up, buttercup." She reminds him of the excellence she expects from her team,

and the status of his recent sales. She tells Carl if he can't hack it, he can quit.

Out of a sense of pride and with some fear for his job, Carl soldiers on. Weeks later, as nothing changes, Carl decides to take the matter to Human Resources, which promptly investigates and begins to work with Leanne. To her credit, Leanne's behavior improves modestly. However, Carl still feels put upon and quits.

The pharmaceutical company considered the circumstances and weighed its options. In spite of finding (based on their investigation) that the conduct did not rise to the level of unlawful harassment, Carl "felt" singled-out and might claim he was harassed based on a protected characteristic (gender, race, age, etc.).

While the company may ultimately prevail on the merits of a suit by this employee, the costs associated with prolonged litigation included heavy legal fees and/or a costly settlement agreement.

The legal challenge for the company had laid in its long-term pattern of ignoring Leanne's problematic behavior. Had the company been able to show on-going efforts to address the issue, or taken a more deliberate stand on ensuring appropriate employee behavior overall, the circumstances may have been different. Carl would likely have seen the company as caring about its work environment and about its employees. Instead, Carl believed the company cared only about sales and its bottom line.

By the time Carl made his complaint, the company was already 'behind the eight ball.' Leanne's behavior was well-known by both employees and Human Resources. Adding insult to injury, Human Resources worried more about the potential lawsuit than Carl's well-being or the company's overall culture of accepting bad behavior.

As such, Human Resources made minimal effort to engage with Carl in the days following the complaint. This was a lost opportunity to show Carl that the company had a true desire to create change, and quite possibly hammered a nail in the coffin of likely litigation, as it left Carl feeling unappreciated and ignored by the company.

The pharmaceutical company could have minimized the chances of the above scenario playing out as it did.

It could have mandated leadership training for managers that taught specific managerial skills and appropriate leadership behaviors; implemented a team training protocol that informed employees of the expected behaviors throughout the company, the protocols for addressing concerns, and highlighting the company's desire to keep a healthy workplace; instituted a feedback procedure to encourage team members to air grievances or report potentially troublesome behavior without repercussions; and provided Human Resources with training on managing issues of workplace conflict.

Implementing these steps likely would have cost less than defense costs fighting the employee's lawsuit, or additional

employee suits, and a possible settlement or the risk of taking a case through trial.

Second, the 'Sophomoric Leader.'

James, a senior, corporate-level executive with a national biotech firm, found himself wearing a variety of hats. As a company leader and visionary at a fast-growing firm, he was also tasked with managing some projects directly and assisted with research on new leads. Although he was stretched thin among his many responsibilities, he particularly enjoyed the project and research elements.

This "being in the tank," as he called it, allowed James to interact with a team directly and make decisions that forged immediate impact. However, the heavy load he carried uncovered some unproductive and unprofessional behaviors that affected the productivity of the entire team. It seemed that, between making fast decisions and powering through his long list of duties, James had forgotten his primary role as a leader at the company.

In his daily interactions, James engaged in gossip, played favorites, and showed signs of dismissiveness.

One employee in particular, Roy, noticed he was repeatedly passed over for opportunities that he believed he was primed to carry out in favor of an objectively attractive female peer with whom James overtly flirted.

Roy saw this as blatant favoritism and rightfully complained about project roles and concerns of favoritism and harassment to Human Resources, leading to an investigation.

The company immediately felt the weight of Roy's charges. Married to an employment law attorney, Roy felt the discrimination he believed he faced could easily turn litigious. James, on the other hand, defended his actions stating Roy was not selected for certain projects due to some idiosyncratic behaviors he exhibited that could be deemed distracting or unsuitable for client-facing projects. Yet James had never spoken with Roy about his concerns.

The company saw the situation, which started with poor leadership behavior and snowballed into harassment, as too close of a call. In addition to the investigation, the company immediately secured leadership coaching for James, who, management felt, needed to learn patterns for interacting with the team, even when he was wearing a non-corporate hat. James also needed to improve his skills set in both communication and conflict management, so that he could appropriately initiate a difficult conversation.

This further served as a wake-up call for the company. They had to look beyond James to more pervasive gaps in leadership development caused by years of successful growth and promoting from within, but not providing up-and-coming managers with adequate training, development, or mentoring. An investigation led to similar findings as multiple comments reflected concerns of leaders behaving and interacting with staff in an unprofessional manner.

For James and Roy, their workplace relationship and the balance of whether or not Roy felt justified in pursuing legal action, rested on James' ability to have a difficult conversation with Roy—one in which James could explain his reservations and concerns about Roy's "unsuitable" behavior in front of clients.

This face-to-face opportunity while perhaps uncomfortable for James, allowed Roy an opportunity to reflect on his own behavior and learn of the changes he would need to make to further his own success.

Prevention and Compliance

SB 1300's amendment of FEHA increases the costs and risks of litigation for employers.

As a result, employers should amend their policies and practices to ensure they are in compliance and, as always, take prompt and appropriate action to address harassment, discrimination and other claims.

In addition, they must ensure that supervisors, human resource department members, and others to whom such claims are made immediately report claims to the appropriate persons within the company.

The employer must also guarantee that all employees, including new hires, are aware of and understand these rules. Further, employers have additional training obligations under the law.

While SB 1300 addressed costs and risks, Senate Bill 1343 has expanded the harassment prevention training requirement.

According to SB 1343, virtually all California employers must now provide one hour of training to all non-supervisory employees and two hours to supervisory employees, whether they are permanent, temporary, or seasonal workers, by January 1, 2020, and once every two years thereafter.[16]

The training must be provided by a qualified individual and, in addition to other information, is required to cover FEHA and Title VII of the Civil Rights Act of 1964; the definition of harassment; how to prevent harassment generally and based on gender identity, gender expression and sexual orientation; remedies for harassment victims; potential employer and individual exposure and liability; and measures to curb bullying. Different industries may have different training requirements, of which client employers should be aware. California Senate Bill 970, for example, requires hospitality industry employers to provide human trafficking awareness training.

If compliance with the new #*MeToo* legislation is in question, it is imperative to ensure that you and your employer clients have policies and procedures in place that inform and educate employees about unlawful harassment, discrimination and retaliation; educate employees—including managers and supervisors—about proper workplace behavior; can handle a harassment claim, if made to a supervisor or Human

Resources; and provide required trainings if five or more workers are employed.

If not, employers should update policies and procedures as soon as possible, evaluate any prior complaints and how they were handled to improve responsiveness and ensure that all employees are provided with a copy of the employer's written policies and procedures, mandated by FEHA as of April 1, 2016.

A well-written company policy should list all protected categories under FEHA; explain that employees are protected from harassing and discriminatory conduct by third parties; outline the employer's complaint and investigative process while also specifying that an employee need not complain to a direct supervisor; explain that confidentiality will be maintained to the fullest extent possible; make clear that a victim will be protected from any form of retaliation; and outline the potential actions that may be taken against an aggressor, among other information.

Preventing Claims of Harassment

Employers can get in front of these potential issues by:

- Ensuring Human Resources and managers have the knowledge, resources, and authority to identify and address issues of poor workplace behaviors;
- Conducting routine internal reviews to ensure they are aware of emerging issues. This effort has an added benefit of demonstrating to employees the company is concerned and serious about resolving any issues;
- Establishing company policies for managing concerns of workplace behavior; and
- Teaching employees how they can be involved and help the company maintain a healthy work environment.

Organizations of all sizes have an opportunity to be proactive with regard to potential issues of harassment.

The big leap of faith is that business clients must accept that the expense of careful planning, regular training and monitoring, and consistent engagement needed for supporting both their management and employee professionals is less costly and far less disruptive than litigation.

[1] *https://sd19.senate.ca.gov/news/2018-08-31-jackson-bill-combat-sexual-harassment-heads-governor.*
[2] *Brooks v. City of San Mateo*, 229 F.3d 917 (9th Cir. 2000).
[3] *Id. at 923.*
[4] *Id. at 927.*
[5] Cal. Gov't Code § 12923(b).
[6] *Harris v. Forklift Systems* (1993) 510 U.S. 17.
[7] *https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180SB1300.*
[8] *Reid v. Google, Inc.* (2010) 50 Cal. 4th 512.
[9] Cal. Gov't Code § 12923(c).
[10] *Nazir v. United Airlines, Inc.* (2009) 178 Cal. App.243.
[11] Cal. Gov't Code § 12940(j)(1).
[12] Cal. Gov't Code § 12964.5(a).
[13] Cal. Gov't Code § 12964.5(a)(1)(B).
[14] Cal. Gov't Code § 12964.5(c).
[15] Cal. Gov't Code § 12965(b).
[16] Cal. Gov't Code § 12950(b).

Test No. 128

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. Per California Senate Bill 1300, employers may be liable for all forms of harassment by third parties.
❑ True ❑ False

2. Plaintiff employees must show sexual harassment is "severe and pervasive" when bringing claims against employers.
❑ True ❑ False

3. Under SB 1300, a hostile work environment is defined as "a workplace in which an employee's tangible productivity has declined because of harassment."
❑ True ❑ False

4. An employer may be responsible for the acts of non-employees with respect to harassment of employees, applicants, unpaid interns or volunteers, or persons providing services pursuant to a contract, if the employer knew or should have known of the conduct and failed to take immediate and appropriate corrective action.
❑ True ❑ False

5. The best way for employers to protect a business' reputation is to have all employees sign non-disparagement agreements upon hire.
❑ True ❑ False

6. Off-hand derogatory comments made by non-supervisory employees, and not directed at anyone specifically, may be relevant evidence of discrimination.
❑ True ❑ False

7. In most cases, employers are likely to prevail on harassment summary judgment motions.
❑ True ❑ False

8. A client's mail clerk witnesses a car accident across the street from the client's place of business. Shaking her head in disgust, she tells a male coworker, "Chicks can't drive." This an example of a discriminatory remark that could support a hostile workplace claim.
❑ True ❑ False

9. Courts will consider the extent of an employer's control with respect to the conduct of non-employees when reviewing cases of harassment committed by non-employees.
❑ True ❑ False

10. It is no longer legal to obtain a plaintiff's release of all Fair Employment and Housing Act (FEHA) claims when negotiating a settlement for sexual harassment claims.
❑ True ❑ False

11. Employer defendants may recover attorneys' fees and costs only if the court decides the employee's claims were frivolous, unreasonable, or groundless when brought, or the plaintiff continued to litigate after it clearly became so.
❑ True ❑ False

12. It is sufficient for employees to know management has an "open door policy" if they feel they are being harassed.
❑ True ❑ False

13. Employers with fewer than 25 employees are not required to provide unlawful harassment, discrimination and retaliation prevention training to their workers.
❑ True ❑ False

14. Employers may ask employees to sign a waiver of FEHA claims or rights in exchange for a raise or bonus, provided the release is written clearly and signing is voluntary.
❑ True ❑ False

15. An abrasive management style, so long as it is not directed at any one employee and not based on one of the protected characteristics under FEHA (race, age religion, gender, etc.), merely requires monitoring by an employer to ensure tensions do not escalate.
❑ True ❑ False

16. Proper managerial training regarding conflict resolution and harassment/discrimination prevention is a recommended method of minimizing employment claims and litigation.
❑ True ❑ False

17. SB 1300 creates a litigation-friendly environment for plaintiffs, as employers may recover costs of litigation only under very narrow circumstances.
❑ True ❑ False

18. Bartenders and cocktail servers will have a difficult time pursuing harassment claims as the nature of their work leaves little defense against unwanted advances.
❑ True ❑ False

19. Providing regular harassment and discrimination prevention training, in addition to being required by California law for most employers, demonstrates to employees that management cares about maintaining a productive, healthy work environment.
❑ True ❑ False

20. Employers without a harassment, discrimination, and retaliation prevention policy are in violation of California law.
❑ True ❑ False

MCLE Answer Sheet No. 128

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:

San Fernando Valley Bar Association
20750 Ventura Blvd., Suite 140
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METHOD OF PAYMENT:

❑ Check or money order payable to "SFVBA"
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5. Make a copy of this completed form for your records.
6. Correct answers and a CLE certificate will be mailed to you within 2 weeks. If you have any questions, please contact our office at (818) 227-0495.

Name _____
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State/Zip _____
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State Bar No. _____

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

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

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18 JULY

AT 6 PM

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SFVBA Attorney Members – Complimentary
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Continuous raffle prizes throughout the evening.

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It Really Is a Small World After All

By Michael D. White

All of the SFVBA member attorneys chronicled in this article have, at some time or another in their lives, enjoyed the unparalleled experience of studying, learning, and growing abroad. In some instances out of their comfort zones, often away from family and friends, in 'new worlds' open to discovery and experience.

IT'S BEEN SAID THAT NOT EVERYONE IN THE WORLD looks the same, speaks the same languages, eats the same foods, sings the same songs, wears the same sort of clothes, or shares the same dreams and aspirations. The list of differences is endless.

But, at the same time, no one in this world exists as a self-sufficient island, devoid of the deep human need to interact with others.

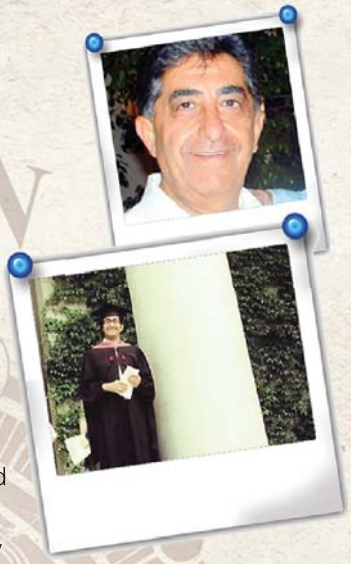
That interaction, that desire to learn from one another, has shown on countless occasions in every corner of the globe that we are, perhaps, more alike than we sometimes realize.

All of the SFVBA member attorneys chronicled in this article have, at some time or another in their lives, enjoyed the unparalleled experience of studying, learning, and growing abroad. In some instances, out of their comfort zones, often away from family and friends, in 'new worlds' open to discovery and experience.

Some studied overseas in their country of origin, some went to fulfill academic requirements, while others were drawn by a sense of adventure to develop the different perspectives and important nuances that different cultures can provide only by direct exposure and experience.

All broadened their personal and world views by taking advantage of the opportunity to learn from others—others, who they found, though different in many ways, were fundamentally the same as them.

Abbas Hadjian



Born and raised in Iran, attorney Abbas Hadjian is a bilingual—English and Farsi—California Certified Family Law Specialist. He is a graduate of the Tehran University School of Law, Economics & Political Science and holds a J.D. from the University of La Verne Law School and MPA, Master of Public Administration from Harvard University. A published author, he is an acknowledged expert in Iranian civil and family law and procedure, and regularly provides legal assistance to California's expatriate Iranian community.

"When I graduated from law school in Tehran, I didn't practice law as I was appointed a Deputy Governor of the Persian Gulf area from 1969 to 1979. My work was partially legal because I was overseeing the economic development and in 1975 Harvard invited me to participate in an international development program for foreign professionals. "They counted my work in Iran as equal to a year's academic work, so after my year at Harvard, I was granted a master's degree from the Kennedy School of Government. In 1979, the revolution made it unsuitable for me to stay, so I self-exiled myself and my wife to California. My wife was from California and we weren't safe staying in Iran.

"I didn't have many options, so I decided to go to law school where I worked in the library. I learned to do legal research and became familiar with all of the resources available on the law here. I passed the bar here in 1988. In 2010, I received my California Bar Specialty certification in family law and act as a liaison between Iranian family law and the Persian community in California.

"I've learned over the years how necessary it is in a diverse place such as California for lawyers and judicial officers to understand the significance of diversity and the various issues that immigrants face when they come here…language barriers, domestic violence, the biases we all have.

"I believe that no judge or attorney in California can do their job well unless they are aware and appreciate the fact that 50 percent of California's population say, 'good morning' and 'good night' to their children in a language other than English. Within 20 years, that figure will go up to 70 percent.

"Knowing about other cultures, religions and all is not a luxury in California; it's a necessity. So, I believe that education abroad, even if for a short period of time, helps people, especially attorneys, become more empathetic, understanding and accepting of all that makes us different."

Alyse G. Berkley

A 'general practice' attorney based in Encino, Alyse G. Berkley was admitted to the State Bar of California in 1980, after graduating from Southwestern Law School. Over the span of her career, she has worked in the area of torts, automobile accidents, personal injury litigation, mediation and arbitration, and civil litigation and serves as a Judge Pro Tempore for the Los Angeles Superior Court. Before attending law school, she completed her undergraduate work at California State University, Northridge. She first traveled to Israel in 1970, and has since studied and traveled across the country many times.

"I visited Israel twice before I spent my junior year of college at the Hebrew University in Jerusalem. I had taken

summer school classes there to beef up my Hebrew language skills.

"Traveling across the world to a very young country was a transformational experience during a very difficult time. Living in the French Hill district of Jerusalem, I had to do guard duty. I met people from all over the world…South Africa, Rhodesia (now Zimbabwe), Australia, New Zealand, France, England, Latin America…it was a fascinating opportunity to experience all these other cultures. I took Spanish language classes in Jerusalem; my teacher was from Argentina.

"I loved it all. The whole experience was life transforming and I grew as a person. When I got home, I knew I had to go back, so I looked into a law school summer program in Israel offered by American University.

"I was accepted and was able to earn six credits at the Hebrew University in Jerusalem. There were law students from all over the U.S. and our professors were Israeli Supreme Court Justices. We learned how the unique trichotomy of Jewish law, English law, and the law of the old Ottoman Empire blend together to make Israeli law. It was fascinating to see how the law works as there is no jury system there.

"Everything I learned while studying and visiting Israel has been to my benefit as an arbitrator and mediator. In one particular case, I determined early on that the case wasn't about money, it was about pride and I knew that the other side was going to have to come up with an apology. We worked on it and they did. I couldn't have done that without my training and experience in Israel."

Anthony S. Khoury

Licensed to practice law in California since 2005, Anthony S. Khoury is the principal of the Law Office of Anthony S. Khoury, located in Westlake Village, where he specializes in employment law and business litigation, as well as DUI and criminal defense. A graduate of the University of California, Los Angeles, he received his J.D. from the Washington University School of Law in St. Louis, Missouri and speaks Spanish, Arabic and French.

"I moved to France with my family in October of 1991. My father was in the hotel business and had gotten a job to help open one of the hotels at the Euro Disney Resort in April of 1992.

"We lived outside of Paris for three years, where I attended middle school and started my first year of high school before moving back to the U.S. When we got there, I knew just a handful of words in French and I knew how to count to 100. That was it. And I had to start school two months into the school year, so I was way behind from the get-go.

"The public school system there is completely different than in the U.S. Middle school is sixth grade through ninth grade, and then students choose a high school, which is tenth grade through twelfth grade, to attend based upon the career path they want to pursue.

"Thankfully, there were several teachers who helped me out with my French and the vice-principal had lived in the United States and spoke English fluently. That was a great help as I really didn't know what was going on at first. They steered me through the end of the first trimester, and by the second trimester, I started to get things figured out.

"By the third trimester, I was on the honor roll, or at least, their version of an honor roll. The curriculum was particularly daunting…French spelling, grammar, and composition, English, either Spanish or German, Latin, a technology class, music, physics, chemistry, biology, civics, history, geography, and on and on. It was a lot. We had 15 subjects every trimester, which is double the amount of subjects in middle school or high school in the U.S.

"I learned so much in those few years that have helped me, though. I was in the position of having to figure things out 'on the fly' and get things done when they needed to be done. That's helped a lot in my law practice. Also, the fact that I had to learn to read and communicate in several different languages has really helped in working with different people from various backgrounds and walks of life.

"Although it was very hard to connect with my classmates at first, I made some amazing, life-long friends in France that I still talk with today. My vice-principal even comes out to L.A. to visit on occasion and we reminisce about those years. I was so incredibly fortunate to be put in the position of being exposed to a lot of different people and ideas, and that well-rounded experience has definitely impacted my work as an attorney."

Constance Bessada

A graduate of the University of California, Los Angeles with a degree in psychology, Constance Bessada received her law degree from Oregon's Willamette University College of Law and earned a Graduate Diploma in Comparative Law from the Center for International Legal

Studies at the University of Salzburg in Austria. Admitted to practice law in both Oregon and California, Bessada practices in the area of family law and is based in Van Nuys.

"During law school, I took a summer semester in International and Comparative Law in Vienna. The program was through McGeorge Law School. After law school, I returned for a post-graduate certificate at the Heidelberg and Salzburg Juridical Faculties. This program, also through McGeorge, offered more coursework in International and Comparative Law, as well as in international trade and economics, and put me into an internship with a lawyer in Vienna.

"One of my profs in both programs was a delightful Hungarian by the name of Ferenc Mádl. Many years later, I came across his name. He was President of Hungary shortly after the Communist regime fell!

"When the internship concluded, I dubiously applied for a position as a Law Clerk in the Austrian Federal Courts, and once they saw from my law school transcript that I had actually taken courses in law, albeit in the United States, I was accepted. Clerking in Austria consists of rotating through different courts. My first assignment was in the Commercial Court, hearing contract and intellectual property matters. Thereafter, I rotated to the Criminal Court and Court of Appeals.

"Currently listed as the most livable city in the world, life in Vienna in the '70s was a bit slower and still had a somewhat post-war sense, compared to the fully restored glittering city it is now. It was lovely to be able to go to so many different theaters and concerts and wine gardens. Weekends, since Europe is really so small, was a great time to hop a train and go to Salzburg or the Alpine meadows, or south to Italy.

"Once, when I had a car, I headed to the Austrian countryside for some wine-tasting. The vintners welcomed me into their wine cellars, built into a hill, and gave away tastes. I got lost and took a wrong turn, found myself going deeper into woods on an ever more poorly-kept road, when I saw a sign in Czech. This was still communist times, and I realized I had crossed the border and had no passport on me. It was a lucky break that I got out of there before being arrested.

"More mundanely, I passed the Oregon State Bar before going to Europe for my postdoctoral coursework. I have always had a strong independent streak, so law school seemed to be the way to ensure I would never have to depend on anybody to support myself. It has been that, but also a profession where I was not chained to a desk. I love being able to be out and about—at court, at the law library, at meetings. But the best part has been to have met my interesting clients."

Taylor F. Williams

Taylor F. Williams is a partner with Donahoe & Young LLP, directing her practice toward civil litigation, including real estate, business transactions and bankruptcy and probate-related matters. Born in California and raised in Texas, Williams earned her undergraduate degree with honors at the University of Texas. While completing her undergraduate studies there, she studied abroad at the Mediterranean Center for Arts and Sciences in Italy.

"I was a political science major in college and went to Italy for a semester to study the Italian mafia. It sounds odd, but with my major I was interested in politics, government corruption and that sort of thing. I needed some extra credits and that seemed the best way to get them. The school was on a small island off the coast of Sicily, and offered all sorts of classes like photography, writing, poetry and more that I otherwise never would have had exposure to, in addition to liberal arts studies.

"It was a place where people were still paid protection money to local Mafioso. I met an American-born owner of three small restaurants who refused to pay them and had had several buildings burned down as a result. It was shocking to me that that sort of thing still happened.

"I had wanted to go to law school since I was a little kid and I had already applied to several law schools before I'd gone to Italy. I knew I wanted to be a litigator, which is what I wound up doing on the civil side.

"Some of the people I was with were from Texas, while others were from Michigan, Florida, New York and all over the country. I was a great opportunity to meet people from all walks of life.

"I loved being able to meet the people there. It was such a different way of life...a truly relaxed culture very different from the 'go-go-go' kind of thinking that I was used to. I can remember, in law school, looking at photos of Italy and thinking, 'You're OK. Calm down. Take time for you. Everything is going to be alright.'

"My eyes were opened to the fact that it's a huge world out there, there are all sorts of people, and it's not good to stay in your own bubble. Studying abroad was one of the greatest experiences of my life and I would recommend it to anyone."

Benjamin E. Soffer

A litigation attorney for more than 20 years, Benjamin E. Soffer graduated from Loyola Law School with honors after a 14-year career as a civil engineer and computer programmer. Born in Israel, Soffer emigrated to the U.S. to New York City, where he graduated from high school before attending Pennsylvania State University, where he majored in civil engineering.

"I was born in Israel and lived there until age 16. My family emigrated to the U.S. after I had finished my sophomore year of high school in Tel Aviv.

"My father had lived and worked in many different countries before he settled in Israel. He was born in Iraq, educated in India, lived in Singapore and Japan, and moved to Israel and then the opportunity arose to move to either Zimbabwe [then known as Rhodesia] or the U.S. It was a matter of economics; my Dad had a lost a decent job in Israel and my parents were looking for new opportunities. They decided on the U.S., so we moved from Tel Aviv to New York City.

"This was in the early '70s and one can imagine the culture shock. I could barely speak English and the high school in New York wasn't the best, but the experience of taking classes in school in Israel gave me the tools I needed to do well in school in New York. I don't think that's still the case anymore as I understand the quality of education in Israel has really deteriorated.

"In any event, I was accepted to Penn State, studied engineering, and worked as an engineer and computer programmer for 14 years before deciding to go to law school.

"I do pro bono work once in a while with immigrants, primarily from Mexico and Latin America. I think the 'culture shock' experience in early life, and being an immigrant myself gave me a certain subconscious empathy that has helped along the way."

Yi Sun Kim

Yi Sun Kim is a partner with G&B Law, LLP and practices in the areas of bankruptcy, business litigation and business transactions. Educated in the Valley, Kim attended Taft High School. While completing her undergraduate work at Wellesley College in Massachusetts, she participated in the study abroad Program at University College in London, England, and, while at Loyola Law School, took part in a similar study program at the University of Hong Kong. Kim currently serves as President of the SFVBA.

"I went to England when I was still a pre-med major at Wellesley and I'd developed a deep interest in English and writing. I'd taken a class in Shakespeare and had a really entertaining professor. He emphasized the performance aspect, rather than the reading approach. I'd come across this brochure from NYU about the study abroad program and about how you could study Shakespeare in London. Reading Shakespeare can be boring, but when you actually see it performed, the message gains greater depth; you become much more engaged in what's going on.

"During my first year of law school, I learned about another study abroad program, so rather than look for an internship or a job, I decided to apply. I was accepted and a group of about ten of us went to Hong Kong. The first month involved classes in comparative law, and the second month was spent in an internship. It was the chance to go somewhere with people I knew…so I knew it would be a different experience from my solo trip to England.

"The experience of seeing different places, different cultures…something outside of what you read in books. In London, it was what I had read translated into life on the stage. In Hong Kong, it was seeing the history of two entirely different cultures…English and Chinese…melted together. I remember a candlelight vigil that was held to commemorate the 1989 Tiananmen Square protests.

"In both London and Hong Kong, there was so much to see and do and learn. All of us in both programs were really fortunate."

Sassoon Sales

Born of Middle Eastern Jewish descent in Calcutta, India, Sassoon Sales attended a Christian Brothers boarding school and a Jesuit college there before traveling to England and law school at the University of London. Graduating in 1967, Sales soon moved to Southern California via New York City. Admitted to the California Bar in 1974, he practices in the area of business litigation and insurance bad faith litigation on behalf of policyholders. From 2007 to 2014 Sales operated the Hurricane Legal Center, which handled approximately 1,500 legal insurance claims from Hurricane Katrina victims.

"In my opinion, the primary difference between India/England versus the United States at the college level is the absence of pressure, tests and grades. For instance, in law school in England, Part I of the final exam was given at the end of the second year and Part II at the end of the third year. No other tests, papers or anything.

"Overall college is not stressful or pressured and students are left to their own devices. At law school in England there is a general feeling of constriction compared to the U.S. The profession is divided into solicitors and barristers and being a barrister is not on the mind of most students. It is hard to come by and requires connections.

"The American trial lawyer creates an enormous difference between the two sides. In England, and therefore India, a contingency fee is illegal; only slightly less so now. It is considered champerty, maintenance or barratry, all forbidden by common law. This difference compounds the feeling in England of the profession being cut and dried.

"Here in the U.S. lawyers are everywhere and in every type of endeavor. The marketplace is wide open. In England, on the other hand, the fact that solicitors have to be solicitors (by and large they can't go to court) and barristers have to be barristers (they can't meet the public except through a solicitor) contribute to the constriction and overall tedium."

Tal Burnovski Yeyni

Tal Burnovski Yeyni is an Associate Attorney in the employment practice group at Lewitt Hackman in Encino. She earned her Master of Laws degree (LL.M.) from the University of California, Los Angeles School of Law, where her primary concentration of study centered on labor and employment law. She earned her initial law degree from Bar Ilan University School of Law in Israel and moved with her husband, an animator, to Southern California five years ago.

"I initially wanted to be a teacher because I've always felt that I have this inherent sense of justice. My sister convinced me that being an attorney would be a better way to go; I had always thought that attorneys were like what I'd seen on 'Law & Order' and 'Ally McBeal,' always in a courtroom, but I learned from a friend of my sister that there are different kinds of attorneys.

"After two and a half years in the IDF [Israeli Defense Forces] as an Education Officer, I was discharged and worked for a while as a flight attendant for El Al to travel and earn a living.

"So, I started law school, which isn't at all like the undergrad and grad system here. In Israel it's a mix of a three-and-a-half-year program and a one-year internship. While in law school, I volunteered for a non-profit that helped disadvantaged workers. I liked it and, when I was able to work in employment law during my internship, I decided that was the area of law I wanted to work in.

"I initially worked for a highly-regarded law firm in Israel that concentrated in defense work on cases involving universities. My boss there had a philosophy about educating employers about what is right and, for the two years I worked there it proved to be a great experience.

"I had always wanted to get a Master of Law degree from an American university, so when we moved here, I took advantage of the opportunity to earn my LL.M. at UCLA with a focus on labor and employment law. The approach toward employment law in California and Israel are somewhat similar, so it was easier in many ways to learn the way things are done here regarding the relationship between employers and their workers.

"You always take something away from your life experiences. I've learned to be patient and know that teamwork is something that is essential for success."

Ronald J. Tasoff

Ronald J. Tasoff is a partner in the firm of Tasoff & Tasoff, an immigration law office based in Encino. He originally attended law school at the University of Florida, but transferred to Loyola Law School. He was admitted to the California Bar in 1975 and is certified in the area of immigration and nationality law. Tasoff participated in law study programs in Mexico City and at the University of St. Andrews in Scotland.

"During my sophomore year at Berkeley, I discovered that the school had an exchange program with several overseas universities and, since I didn't speak any foreign languages at the time, I chose to go to the University of

St. Andrew's in Scotland. It was competitive, but I applied and was very excited when I was accepted. So, my junior year was spent in Scotland. It was the exact opposite of Berkeley in the late '60s. It was cold and rainy and absolutely wonderful. I lived in private homes and dorms and made a lot of friends. I'm still in contact with one and last January, his family and my wife and I shared a house up in Paso Robles.

"I was able to travel to Spain and Morocco and bought a Volkswagen van from a Canadian hippie in Spain that I fixed up and took to France, Switzerland and Italy and then back to Scotland. It cost $100 and didn't have any suspension. I wasn't allowed to take the van into Germany because they said it was too noisy.

"After I graduated from Berkeley, I went to law school at Loyola and eventually applied to the University of Florida Law School's Summer 1974 program in Mexico City. It's funny, but I've pretty much forgotten my second and third year of law school, but I clearly remember the six weeks…or was it eight?...that I lived there, and the two weeks after that when a group of us traveled by bus and train down to Guatemala.

"As it turned out, I took three law school classes… comparative law, international law and one I can't remember, got full pass/not pass credit for Loyola Law School, where I returned to finish my third year. The program and living costs were actually less than I would have paid for the same amount of credits at Loyola. I also attended an intensive Spanish language program. I learned Spanish in four weeks and forgot it all in about the same amount of time. I made a lot of friends from U.S. law schools back east. I actually received a certificate of completion from the University of Florida Law School, though I didn't really expect to get one."

"Both experiences overseas have really helped me relate better to my clients. I was very fortunate to have had the opportunities and I wouldn't trade them for anything."

Hannah Sweiss

An Associate in the employment and business & civil litigation practice groups at Lewitt Hackman in Encino, Hannah Sweiss is a Dean's List graduate of Southwestern Law School. Admitted to the Bar in 2013, she represents clients in real estate and franchise and distribution law and began her undergraduate studies at the American University in Cairo, Egypt.

"I am half Scottish and half Egyptian. My mother was born in Scotland and my father was born and raised in Egypt. I was the first one born here in the United States…in Chicago.

"As I grew up, I was exposed to two different cultures and being in a country different from both my parents. As I was growing up, I wanted to know more about my Egyptian background. I had visited there over the years and so, as I got older, I decided that I would go there and study.

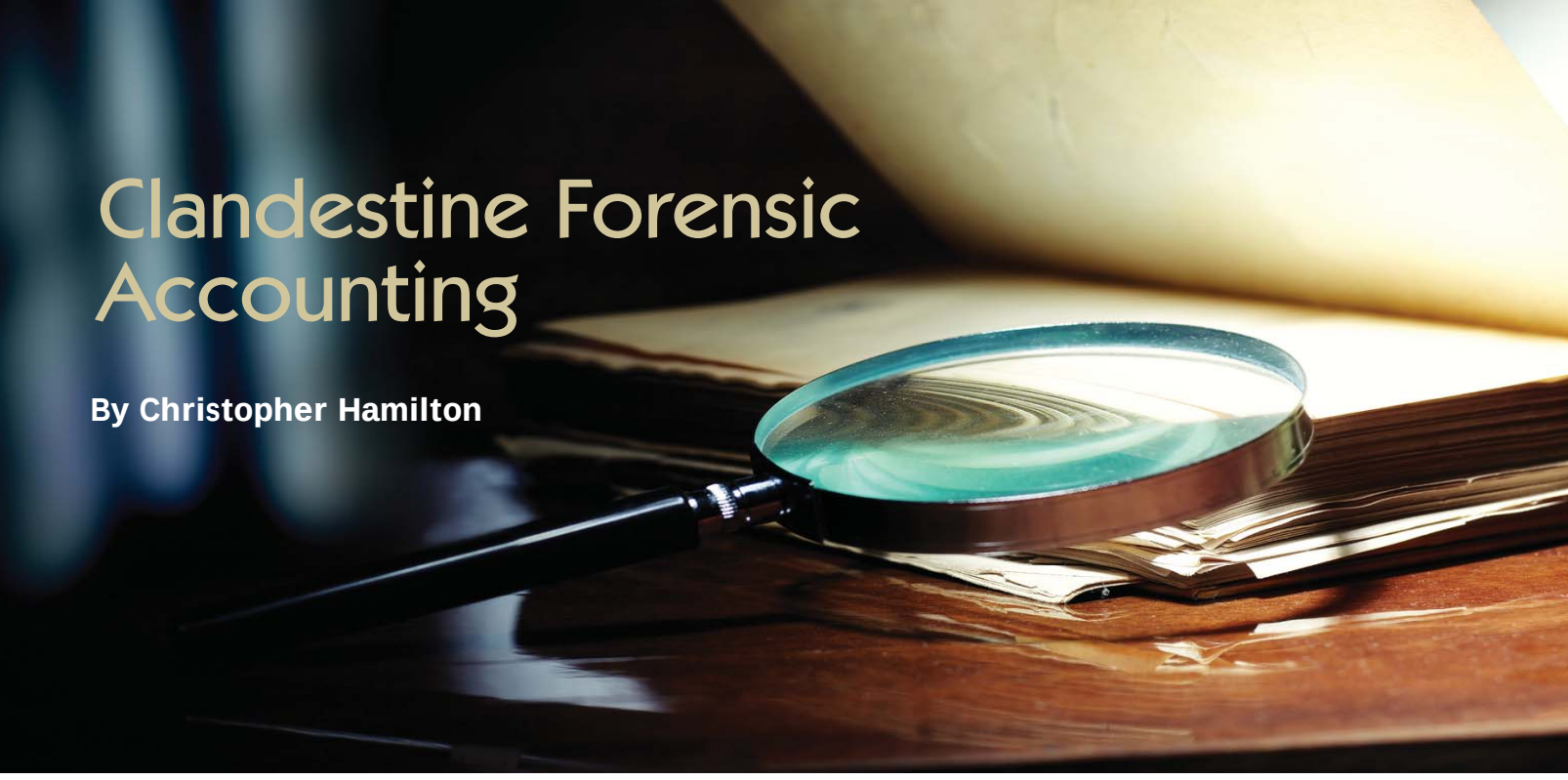
"The year before I graduated from Glendale High School, I had gone to Egypt and stayed there for a summer. I decided then to go to the American University in Cairo, at least to start. I went there for the first year and a half of college. It was a wonderful experience because I got to be there at a time when the school was located in Tahrir Square in downtown Cairo. I learned how to read and write in Arabic and travel to different places in the Middle East…Lebanon, Jordan…taking the opportunity to do that.

"It was wonderful to get more in touch with that side of who I am, but it also made me appreciate everything we have in America and how my parents came here and taught me to appreciate all of the opportunities and freedoms that we have here. The opportunity, for example, to prosper no matter where you come from.

"People may say it's hard to do that here, it's virtually impossible to do that there. The experience gave me a greater appreciation for and connection with my background. It broadened my horizons in that I just don't think of the world as being centered here.

"It's one thing to go travel somewhere and just visit; it's very different when you actually live there and experience the day-to-day. That experience opened my mind. Los Angeles is a multi-cultural place and the experience gave me an insight on how to resolve the conflicts that sometimes arise when different cultures and social dynamics bump into one another."

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 40 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.



Clandestine Forensic Accounting

By Christopher Hamilton

FORENSIC ACCOUNTING IS THE investigation and analysis of people and money. Money by itself has no moral or ethical properties. However, in the hands of people, money becomes a traceable indicator of moral, ethical, and even legal implications. "Follow the money" is, therefore, a commonly understood and accepted truism.

A coroner practices the most readily obvious form of forensic science as they are tasked with identifying the condition of the body immediately before death thus providing a cause of death.

In similar ways, a forensic accountant plays the same role in several financial contexts. The most obvious may be establishing the financial condition and value of a business that has been destroyed or harmed and quantifying the damages related to a catastrophic event.

The most common understanding of forensic accounting is in the arena of fraud, embezzlement, and the intentional destruction of tangible and/or intangible assets. Examinations in such cases require focus, caution, and the ability to process testimony and evidence through a multi-faceted lens. The money must be followed with a keen eye on the interaction of that money with people.

When a fraud examiner arrives, the fraud has usually ended and the victim has retained accountants to identify means, motive, and quantify the financial loss. Sometimes, the malfeasance is in-process and ongoing; it is only a suspicion. That dynamic adds intrigue and stress to the process since the goals are the same, but the environment of the investigation is cloaked in secrecy and a measure of urgency.

Cloak and Dagger

The following is a description of a case that was sensitive, urgent, and resulted in successful prosecutions. It was also unusual. The "field work" in this case began with a clandestine meeting behind a restaurant after midnight with an inside informant and several investigators.

In anticipation of the meeting, several investigators covertly followed the informant to the meeting to assure they were not being followed or otherwise observed. It was a fitting start to a most unusual "site visit" and case.

The most effective and common detection method for identifying occupational fraud in a business is a confidential tip by an employee or others. Determining what to do with such information can be difficult. In this case, the informant was an entry-level accounting clerk with first-hand observations and knowledge of what appeared to be a complex operation involving the cooperation of several members of division management to defraud the company of millions of dollars. The information was sent directly to a member of the company's Board of Directors.

Because of the complexity and number of employees involved in the alleged conspiracy, the Board of Directors concluded that extraordinary measures must be taken to conduct the investigation. They hired a recently retired federal law enforcement agent to lead the investigation with instructions to maintain

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strict secrecy regarding the investigation, its details and its progress.

Unsure of how extensive the conspiracy scheme was, there was to be no communication with any member of the company's management team or the outside auditors.

All reporting on the progress and conclusions of the investigation were to be reported to the Chairman of the Board either in-person or via his personal secure phone line. The home office of the company was in a country other than that where the division was located.

Assembling the Investigative Team

The secrecy of the investigation presented several unique dilemmas. The most significant hardship was how to develop evidence to prove embezzlement without obtaining any information from management and without the knowledge of management.

The fraud examination team was assembled by the lead investigator to complete the work with two primary approaches.

First, a team was assembled to acquire evidence of the personal finances and spending habits of the members of management in question. The goal in this approach was to assemble evidence independent of the forensic accounting work that would corroborate the accountants' conclusions.

Second, an accounting firm was retained to provide the fraud examination and forensic accounting work. In short, one team investigated the people involved, while the second team concurrently dug into the company's books and followed the money trail.

The first assignment for the accountants was to solve the primary dilemma—how to get the evidence needed to either make the case or prove that there was no case. In today's world, flash drives would suffice, but when this case occurred, manual accounting records were still in extensive use.

In this case, after considering both limitations and circumstances, the investigators approached the company's Board to propose entering after-hours and removing the needed accounting records while none of the accounting staff was present. The accounting records would then be transported some 500-plus miles to the offices of the forensic accounting firm, where the investigative work would be conducted until conclusions could be reached.

The plan was approved, written authorizations issued, and a date set for this most unusual site visit. The date was important as the operation needed to be after the heavy workload of month-end closing when missing accounting records might not be needed. Once the date was chosen, arrangements were finalized to have a trucking company on hand, while the informant was made available, and the team of investigators was assembled to facilitate the break-in.

On the appointed date, the investigators and forensic accountant flew in to the nearest airport, rented a car, and met the informant. An inside informant is typically invaluable because of their knowledge of accounting policies, the actual physical location of records, and other details critical to a successful data-grab.

The assistance of the informant in this case was limited because they had no knowledge of the passwords that would allow the operations team to view or copy the electronic accounting records.

Consequently, investigators would only have access to hard copy accounting records.

Complications Overcome

To complicate the operation, the business location included a multi-story office facility attached to a manufacturing plant that operated 24 hours a day. The mission was to get into the offices, obtain the records, load the trucks, and leave without being seen by anyone

in the plant. The role of the forensic accountant was to lead the group through the offices and point out all records that could be removed and might be relevant. The mission was simple—make off with the records that would be useful to the fraud examination, but would not be immediately missed by accounting personnel.

As soon as someone in the accounting department found that a notebook or binder was missing, the whole operation would be blown. So, the pressure was on the forensic accountant to get what was needed without removing anything that was too relevant to the day-to-day operations of the company. By 4:00 a.m., the truck was loaded with the documents and on its way to the offices of the forensic accountants.

It was now a race to complete the investigation before the local division management figured out there was an ongoing investigation or noticed that documents were missing. The Board and all the investigators knew it was just a matter of time. To counteract that inevitability, a procedure was established so that the inside informant could notify of any compromise to the investigation.

Specifically, when someone in the accounting department requested information that had been removed, the informant would leave the premises immediately. Once off the premises, (the safety of the informant is always an important planning detail) the informant was to call the forensic accounting firm to notify them that the investigation had been compromised and should be terminated.

A Fraud, Vast and Deep

The staff of the accounting firm worked around the clock until the moment the informant called. Since it was many days before any records were missed, the accounting firm was able to put a strong case together establishing the existence and methodology of a complicated, multi-layer inventory fraud scheme.

Accounting records and documents were analyzed closely and preserved that corroborated the claims of the inside informant and documented significant financial gain to certain members of middle- and senior-management.

While the accounting firm did its work, the investigative team concurrently established evidence of individual lifestyles and assets that far exceeded what could be explained by known sources of income.

Within a day of the informant's call, and the existence of the investigation being exposed, the investigators and forensic accountants convened with local law enforcement and began the process of interviews.

At the end of that process, every member of the senior management team of the largest division in this international firm was implicated in a vast and deep scheme to embezzle millions of dollars from the company's coffers with enough evidence accumulated to render the interviews almost unnecessary.

Interestingly, though, the interrogations resulted in several confessions considerably adding to the weight of evidence against other participants in the crime.

While the company was devastated by the tangible and intangible implications of what had transpired, the investigative team was invigorated by the successful implementation of a highly complex engagement leading to irrefutable evidence that gave the company the wherewithal to uncover and bring to justice a criminal operation cultivated by its own trusted management team.

As every forensic accountant knows, there is always a healthy dose of good fortune contributing to a successful inquiry.

A confidential inside source not only recognized the criminal activity, but also had the courage to trigger an investigation that could have put them at great personal risk, while honest company personnel took the information seriously and pursued the matter to its conclusion.

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, we will introduce various members of the Bar and help put a face on our organization.

Peta-Gay Gordon

Partner – OCSB&C LLP
Encino

Born in Jamaica, Gordon moved at the age of nine to the San Fernando Valley.

"It was a complete upheaval," she recalls. "I found myself in a completely different culture, education system and way of life. Everything has sort of blurred together over time, but I do recall that I was sad that we had left family and many friends in Jamaica. It was definitely a big Third World to First World transition – especially in the 80s."

While absorbing the transition and the fact that she had more than two television stations to choose from and could actually watch cartoons at night, Gordon attended Tarzana Elementary School, then going the Portola Junior High, and El Camino Real High School. She later graduated from Claremont McKenna College with a dual undergraduate degree in psychology and international relations.

Admitted to the Bar in 2005, she soon after joined the firm of Oldman Cooley in Encino, where she began to practice trusts and estates, conservatorship, guardianships, estate planning and family law.

Gordon discovered that there were many crossover issues between trusts and estates and family law and utilized her knowledge of both areas to assist clients. Gordon has since decided to focus exclusively on a trusts and estates practice, which in and of itself is a diverse area that touches upon many other types of law and business.

"In law school, I found that those were the most interesting classes," she says. "Interaction between people has always interested me and there's always a lot of psychology involved when working with families in trying times."

"In understanding and respecting the driving force propelling the parties, Gordon has found "that her clients are often better served and the larger conflict more easily resolved."

David S. Kestenbaum

Attorney at Law
Van Nuys

David S. Kestenbaum has been practicing criminal law since 1979. From 1985 to 1992, he served as a prosecutor in Van Nuys. Fluent in Spanish, Hebrew, Farsi and English, he holds an undergraduate degree in business administration from Boston University and his J.D. with honors from Southwestern University School of Law.

"I'm originally from Fairfield, Connecticut, and grew up watching 'Perry Mason.' He was my idol. I've always been for the underdog and he always seemed to be the one who unraveled the case by revealing the truth to help the accused.

An accounting major for one day at Boston University, Kestenbaum shifted majors from accounting to marketing when he discovered that "they wanted the columns to equal and I was more of a 'gray area' person. I knew that I wanted to go to law school and I figured that if I couldn't sell myself, I couldn't sell my client's story."

After a visit to California here in his junior year at BU, he asked himself, "Why am I shoveling snow in the winter and sweating all summer," so he only applied to law schools in the state.

Practicing in the area of criminal defense after a seven-year stint as a prosecutor, Kestenbaum eschewed other areas of the law, especially divorce. "The only divorce cases I've ever done was during my acting days when I did 32 episodes of 'Divorce Court. I found that criminal law is far simpler and much less dangerous."

An avowed baseball fanatic, Kestenbaum would, if the opportunity arose, either work as an usher at Dodger Stadium "so I could watch baseball all the time," or teach.

"I have taught and I enjoy it. I taught a class called 'Street Law' at Garfield High School when I was in law school. Over the past 40 years, I've mentored a lot of young lawyers to pass along to the next generation what I've tried to learn over the years: patience for the client and empathy for their situation."

Laura M. Revy

Partner – Aharonov & Revy
Encino

Originally from upstate New York, Laura M. Revy came west to attend law school at UCLA after graduating from Cornell with a degree in industrial and labor relations.

Neither of Revy's parents attended college. "My Dad started out washing tractor trailer trucks and worked his way up to have an interest in his own company. He always told me that I was going to go to college, but he told me that he'd only pay for me to go to a state school or an Ivy League school. He was rather surprised when I got into Cornell and he had to pay for it. It was close to my home and I really didn't want to go very far away from home at that point."

Completing work in economics at Cornell made Revy think about going into research "because I really liked it," but a high score on the LSAT convinced her to try law school.

After graduating from UCLA, Revy was admitted to the Bar in 2009 and currently practices family law at Aharonov & Revy, Family Law LLP in Encino.

"It was my own parent's contentious divorce that drew me to family law," she says. "My mom's lawyer was really helpful and that really impressed me."

Her three small children, she says, "take my mind off work when I get home. I try to leave it at the door to whatever extent is possible, so I mainly work on forensic accounting and that sort of thing. I shy away from child custody because that's much harder to leave at the office."

The law, says Revy, "is very dynamic in that it's always changing. What the law is today may not be the law six months from now. Every case is unique despite the fact that it may have similarities to another one."

Morgan M. Halford

Associate – Carlson & Cohen LLP
Encino

Born in Tarzana, Halford is a third-generation Valley resident. A psychology major in college, she attended the University of California, Santa Barbara following her graduation from Alemany High School, but she eventually transferred to the Santa Barbara campus of Ohio-based Antioch College after "a difficult transition" from high school to college.

"I went from a small high school where I felt I had a place to a giant university where I was just a face amongst thousands of people," she says. "I was really young when I left for college and UCSB proved not to be the right environment for me. I needed something smaller."

Before settling on a career in the law, Halford had a career in psychology working in a residential treatment program that served the severely mentally ill. "Over the years, we got a lot of clients diverted out of the court system. When I left after 11 years, we were running four groups a day, six days a week. It was a wonderful opportunity for me to come into something on the ground floor and work to build it into something that was seen as a viable treatment option with a very positive reputation in the community."

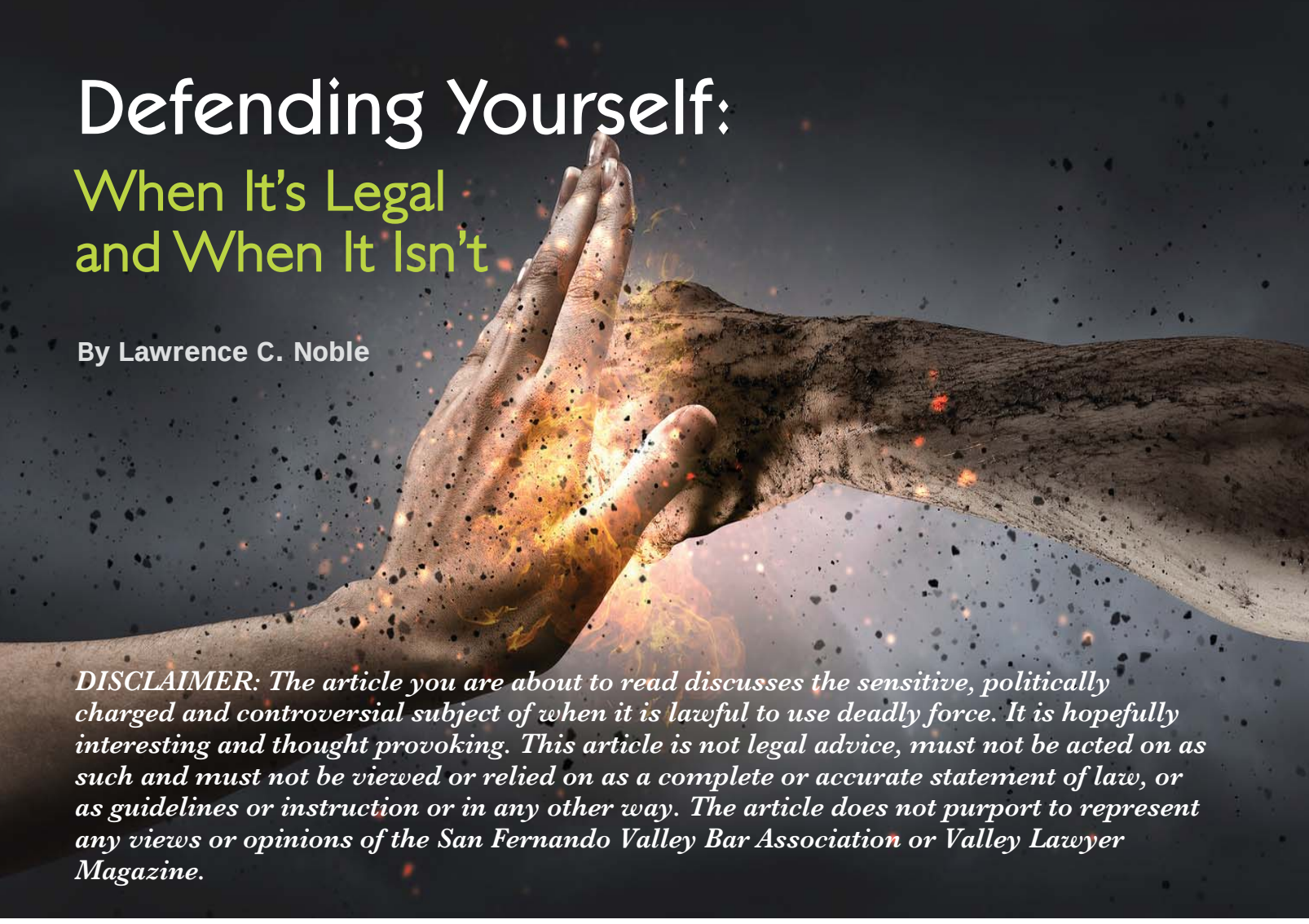
While working full-time at the clinic, Halford enrolled at the Santa Barbara College of Law and attended evening classes, graduating with her J.D. at the top of her class. "It was very challenging, but I never liked to do things the easy way."

For the past seven years, Halford has served as an Associate at the firm of Carlson & Cohen in Encino practicing in the areas of real estate/landlord tenant disputes and litigation, contract formation, contract disputes and litigation, business formation and transactional law.

Defending Yourself:

When It's Legal and When It Isn't

By Lawrence C. Noble



DISCLAIMER: The article you are about to read discusses the sensitive, politically charged and controversial subject of when it is lawful to use deadly force. It is hopefully interesting and thought provoking. This article is not legal advice, must not be acted on as such and must not be viewed or relied on as a complete or accurate statement of law, or as guidelines or instruction or in any other way. The article does not purport to represent any views or opinions of the San Fernando Valley Bar Association or Valley Lawyer Magazine.

SELF-DEFENSE HAS BEEN DEFINED AS "THE use of force to protect oneself or one's family from real or threatened harm.

"Generally, a person is justified in using a reasonable amount of force in self-defense if he or she believes that the danger of bodily harm is imminent, and that force is necessary to avoid that danger."[1]

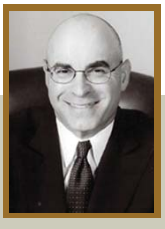
This article discusses the thought process required for a self-defender to act in a way that meets the legal definition of justifiable self-defense in the face of a perceived imminent threat of death or great bodily injury. When making the decision to use deadly self-defense in the face of an immediate threat, one will not have all the time available as if one were identifying the elements of a cause of action. Instead, rapidly unfolding circumstances require split-second evaluation of the situation, unfortunately without the benefit of laidback, contemplative reflection.

As a result, mastery of the rules of self-defense cannot wait until a threat is imminent. They must be developed in advance through physical training and effective, thoughtful consideration to instill a mindset that that can spring into action, almost reflexively, in the face of an immediate, deadly threat.

Further, intellectual mastery of the rules must be combined with physical self-defense training to avoid the type of paralysis that can be triggered by the pressure of such a threat. Along with mental prowess, the individual put on the defensive must be prepared to use physical power and coordination to survive a deadly interaction.

This article, then, seeks to motivate the reader to begin developing the mindset necessary to confidently decide when to legally defend with deadly force.

Further, one will not have time, while under the stress of impending attack, to consult and ponder the content of this article. Waiting until an assault is imminent to try to understand



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these concepts may be too late and may paralyze one's ability to respond in a timely and effective way.

The Basic Rules

First, the basic rule of self-defense is that, to use deadly force for self-defense, one must have an "honest and reasonable belief that one is in imminent danger of death or great bodily injury from an unlawful attack, and that one's acts are necessary to prevent the injury."[2]

What is a "reasonable belief"? Because "reasonable" is one of the most litigated words in the English language, one's self-defense actions will need to be grounded in one's reactions to a specific, perceived threat.

That is why it is essential to begin to run through possible scenarios so that one may attain the level of threat-sensitivity required to reasonably determine that one is in imminent danger of death or grievous bodily injury.

The 'AOJ' Formula

That leads us to the AOJ formula—namely, the *Ability* of the assailant, the *Opportunity* of the assailant, and the perceived *Jeopardy* to the targeted victim.

This is the mental calculation and description that one must compute before engaging in a deadly force defense, but must later be able to explain as being "honest" and "reasonable" at the time the decision was made.

> "Because 'reasonable' is one of the most litigated words in the English language, one's self-defense actions will need to be grounded in one's reactions to a specific, perceived threat."

In deciding whether one's assailant had the opportunity and ability to inflict imminent, deadly injury, the target's subjective perception of the impending threat before using deadly force in self-defense will be considered by the investigators. A jury may later (assuming the case gets that far) decide whether the conduct was as reasonable as it appeared to the alleged target at the time of the incident. So, self-defense arguably will be reasonable and justifiable if the self-defender can explain that the assailant had both the ability and the opportunity to place the target in jeopardy.

To adequately assess, and then later describe, the deadliness and imminence of the threat, one will need to be in a state of heightened awareness. This is not paranoia; it is maintenance of a reasonable level of situational awareness. This means soberly observing the surroundings where one is and using one's senses in a normal, unobstructed manner—that is, minus the cell phones or headphones.

Opportunity will come into play when one has advance notice—by sight and by sound—enabling one to determine and locate a potential threat. If one is unlucky enough to be assailed by surprise, the need to explain the AOJ formula will diminish. But if there is a warning, it is critical to decide how close the assailant is, their rate of approach and speed, and the direction from which the attack is coming.

As the threat approaches one's location, the opportunity for deadly assault increases. Once the assailant reaches a point 15-20 feet from the target, the assailant can very quickly accelerate. Other factors such as the assailant making eye contact, yelling in one's direction, having stressed facial or neck muscles or a generally threatening appearance all contribute to an affirmative decision that the assailant is demonstrating the proximity required to deliver an immediate and possibly deadly assault.

Once it is established that the assailant has the opportunity, the ability part of the formula will need to be established. If one has been surprised and assaulted, ability will be presumed. If not, then observation of the threat will be required to determine if the assailant has the ability to carry-out an imminent, deadly assault.

A weapon in the hand of the assailant will automatically establish ability. But the presence of a weapon is not required to establish deadly ability. Apparent physical disparity in size, in conditioning or in fitness can also establish as might the threat of an unarmed mob. These are all decisions that will need to be made before one can respond to the perceived threat with deadly force.

The Threat of Imminent Danger

Next, the danger must be imminent, that is, it must be a threat that one must deal with immediately.

In a California appellate case[3], a woman's husband frequently beat her. One night, he told her that he would kill her in the morning. After he fell asleep, she shot him in the back five times with a handgun while he slept. The jury convicted her of second-degree murder and she was sentenced to 15 years to life in prison.

An appellate court ruled that "[T]he danger that justifies homicide must be imminent and a mere fear the danger will become imminent is not enough". The court did not feel that her sleeping husband constituted an imminent threat. At that time, 1989, the legal world was on the cusp of establishing the battered woman's syndrome defense. While that case had extreme elements, it clearly makes the point that the threat must be urgent, and immediate and that the self-defender must act straightaway to neutralize it.

Also, under the right circumstances, prior threats may bolster the "reasonableness" of a deadly response; however, most of the readers of this article may not live in a social environment similar to the subject case in which threats of deadly force are, sadly, a common occurrence.

AOJ and the Home Protection Rule

In a generalized way, then, self-defense is legal only when the AOJ test is met.

Because there are an infinite number of possible scenarios, it is virtually impossible to create a comprehensive and detailed list of all the bad things that may or may not happen. For that reason alone, thoughtful consideration, in advance, is necessary to make an effective life-saving decision when one is confronted by an assault.

The Home Protection Rule, however, permits greater latitude with lessened legal consequences.[4]

For example, in the case of a deadly self-defense by a homeowner while inside her home, a reasonable fear of imminent danger of death is presumed if the following three elements are present:

- An intruder forcefully and unlawfully enters the residence (a felonious entry).
- The intruder is not a member of the family or household.
- The homeowner knows that an unlawful entry has occurred.

The effect of this presumption is that the burden of proof shifts to the prosecution to substantiate the charge that the self-defense shooter did not have a reasonable fear of imminent death or injury. This, perhaps, in the face of a homeowner facing a home-invading burglar in the middle of the night.

In this type of case, both the investigating agency and prosecutor will need to agree that, under the circumstances, either inside or outside the home, the self-defense shooter was justified in defending herself.

Two final points—one is not required to retreat as a condition of deadly self-defense and the right of self-defense ends when the attack ends. While one does not have the duty to retreat, avoidance of conflict is always preferred when one does not increase the danger by withdrawing.

And, most importantly, if one successfully fought off an attack, pursuing a fleeing assailant is not permitted. Any mistaken, non-defensive shooting may expose the self-defense shooter to criminal prosecution.

In Conclusion

This article has attempted to provide a brief introduction to a serious legal analysis that almost always is made under extremely stressful and time-sensitive conditions.

It would be a huge mistake for any reader to believe that reading this article alone, without any additional training or deliberation, is adequate preparation for a deadly force incident, an event that can be, literally, life-altering for all those involved.

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[1] *Black's Law Dictionary*, Eight Edition (2004).
[2] *People v. Aris* (1989) 215 Cal.App.3d 1178, 1186.
[3] *Id.* 1192.
[4] Penal Code § 198.5; *See, e.g.*, *People v. Owen* (1991).

CANDIDATES FORUM

The Candidates Weigh In

By Kyle M. Ellis

ON MAY 7, THE SAN FERNANDO VALLEY BAR Association had the privilege of hosting a Candidates Forum for the Los Angeles City Council District 12 special election.

District 12—one of the city's 15 Council districts—encompasses a significant portion of the San Fernando Valley, namely the unincorporated communities of Chatsworth, Granada Hills, Northridge, Porter Ranch, Sherwood Forest, West Hills, and portions of Reseda and North Hills.

Thanks to the sponsors of the event, the SFVBA's Attorney Referral Service, the Reape-Rickett Law Firm, and Kyle M. Ellis, Esq., the venue was standing room only. We also reached several thousand additional people through livestreaming, and many more through the coverage of the members of the attending media.

With the mission being an attempt to bridge the gap between the public and the law, and advance the profession of law in the San Fernando Valley, the topics for discussion included how the candidates would assist the public in understanding and navigating their rights under the often-discounted City of Los Angeles Municipal Code; what they would do ensure residents received the legal aid needed in the wake of the next, inevitable, natural disaster; what actions they would take to resolve the city's homeless crisis, and what actions they will advocate the state take; and what they can do to ensure the city works more collaboratively with the legal community rather than in the largely-adversarial relationship the city finds itself in with the legal community.

Watching the forum, it was easy to see how each of the candidate's responses to the questions were informed by their own experiences. While there isn't enough space to review each response, there were some ideas and emergent themes from their responses that should be highlighted.

First, when addressing the lack of public awareness of their rights and obligations under the city's Municipal Code, the candidates generally agreed that there is no quick solution. It requires the city to simplify and clarify the language of the code and engage in a process of public education about their rights and obligations under the code. Both of these processes will require direct and active participation by the legal community, as without its participation the impetus to start such an undertaking will be sorely diminished, if not non-existent.

Second, regarding the provision of legal services following the next disaster, some of the clearest answers emerging from the candidates involved the city crafting a post-disaster 'legal support' plan. Those discussing the idea aptly described the

need of involving the legal community before a disaster occurs, but that participation may still be challenging in the wake of a cataclysmic event, even with pre-disaster preparation. One proposed solution was for the city to create a monetary fund to defray the legal costs of residents and fund the use of attorneys who may also be affected by whatever future disaster strikes.

Third, the candidates provided well-thought out responses to dealing with the homeless crisis. Many agreed that the first goal was to spend the current funds made available by voters on projects, but that agreement fractured, however, when it came to how to spend the funds. Some advocated housing first, while some fiscal responsibility first, others emphasizing outreach services, and still others focused on providing additional resources to first responders.

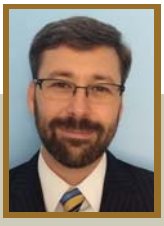
Ultimately, it appears that the decision will be left to the residents of District 12 to decide what path forward they want to take on the issue of homelessness.

Finally, the candidates seemed a little uncertain how to answer the question about how to improve the working relationship between the city and the legal community. It may be that there are no particularly easy answers that work best. What is clear is that both the City Council and organizations like the SFVBA need to reach out to one another, engage in collaborative projects, and keep the critical lines of communication open.

Regardless of each candidates' stance on each topic, the success of the event represents a step forward in the relationship between the city and the Bar Association.

The Bar does not participate in partisan politics nor does it recommend or endorse any person for political or judicial office. It is the mission of the Association to educate and serve its members and our communities. With the special election occurring on June 4, we encourage members in the district to become engaged, vote for the candidate you think best represents your goals for the City of Los Angeles, and participate in future programs hosted by SFVBA and your elected representatives.

Photos courtesy of the Los Angeles Daily News and photographer, Hans Gutknecht.



Kyle M. Ellis sits on the San Fernando Valley Bar Association's Board of Trustees. He conducts civil litigation research as a Research Attorney for the Los Angeles County Superior Court. He can be reached at elliskylem@gmail.com.

Versatape

SIERRA MADRE-BASED Versatape has been producing audio files of MCLE-approved live seminars organized by the San Fernando Valley Bar Association for six years, and for other groups for almost four decades.

In 1978, the seeds of the company were planted when Rich Johnson, then working for another company, 'cold-called' the California State Bar Association and offered to audio record legal education seminars presented at State Bar Annual Meetings and their various Section's seminars and programs. These audio recorded masters were then duplicated on audio cassettes and CDs and sold to lawyers interested in keeping current in their respective areas of the law.

Five years later, with the blessing of the company he was working for, went out on his own and founded Versatape, recording legal educational events presented at State Bar meetings, as well as conferences, annual meetings, and seminars for other executive groups for almost four decades.

In addition to recording programs for the Bar, Versatape has produced, packaged, marketed, and distributed audio copies of those continuing legal educational programs to attorneys throughout California.

In 1992, with the advent of the new Minimum Continuing Legal Education requirement mandated by the State Bar of California, the company continued offering those programs as they qualified for MCLE credit. "The whole idea of having access to MCLE-approved programming that could be listened to as an ancillary activity caught on and has become a very popular tool for attorneys.

Versatape recordings offer attorneys the opportunity to listen to legal seminars at their convenience on audio CDs and MP3 files that cover a broad range of legal topics including bankruptcy, business law, criminal law, family law, immigration, intellectual property, labor and employment law, real property, taxation law, trusts and estates, and workers' compensation law; as well as the elimination of bias in the legal profession; law office technology and management, legal ethics, litigation, and the prevention and detection of substance abuse.

"We've been working with SFVBA since 2013 on between 40 and 45 events a year and we enjoy establishing long-term relationships because it's a win-win for everybody," says Johnson, alluding to Versatape's partnering with SFVBA to provide up to two MP3 MCLE downloads free to members who renew their membership early.

"We're glad to give your members a key to unlock access at no cost as a gesture to say we really appreciate being able to work with the Bar."

Referring the Best Attorneys Since 1948

The Attorney Referral Service of the SFVBA is a valuable service, one that operates for the direct purpose of referring potential clients to qualified attorneys. It also pays dividends to the attorneys involved. Many of the cases referred by the ARS earn significant fees for panel attorneys.

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Law Week 2019: Lawyers in the Library

MIGUEL VILLATORO
ARS Referral Consultant

miguel@sfvba.org

ON MAY 3, THE ATTORNEY Referral Service of the San Fernando Valley Bar Association hosted another successful Lawyers in the Library event in collaboration with the L.A. Law Library and the Los Angeles Public Library in North Hollywood.

The event was a tremendous success with more than 30 people receiving much needed legal advice from the attorneys who so graciously volunteered their time to provide access to legal help.

"Thank you so much for giving up your time to participate in our Lawyers in the Library program," said Janine Liebert, managing librarian at the L.A. Law Library, in a letter to the volunteer participants.

"The event was a great success and it couldn't have happened without you! We had a good turnout, and the people who met with you were very pleased with the assistance they received."

Singling out the volunteer attorneys—Elizabeth Castaneda, Sevag Demirjian, Jack Kendall, Darren LeMontree, Richard T. Miller, Robin Paley, and Jay J. Tanenbaum—Liebert said, "Many thanks for contributing to a wonderful pro bono event. It was a great success due, in large part, to the fact that you gave of your time, energy and expertise to make it happen. We are looking forward to many more collaborations."

The attendees, she said "were very complimentary of the SFVBA attorneys," adding some of the comments shared in their event exit surveys:

- *"Excellent. Gave me several options."*
- *"Very helpful, my stress was relieved."*
- *"I feel like I didn't lose my time and got what I wanted."*
- *"The 5 minutes I needed to move forward! I am very grateful this was possible!"*
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- *"Very positive, good."*
- *"I got an honest opinion."*
- *"It answered my questions pertaining to my case and helped my anxiety."*

In addition to L.A. Law Library Managing Librarian, Janine Liebert, and Director of Patron Services, Malinda Muller, our appreciation also goes out to the staff at the North Hollywood Public Library for their contribution in creating yet another successful Lawyers in the Library event.

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Thanks to our dedicated volunteers and generous sponsors for making VCLF's inaugural Spring 2019 presentation of *Constitution and Me* a great success! VCLF's interactive constitutional law program presented high school students with a hypothetical case involving issues of free speech, cyberbullying, and safety in the school environment.

Using actual Supreme Court case summaries, and with the guidance of volunteer judges and attorneys, students at three Valley high schools participated in a spirited debate on the issues during three weekly sessions, culminating in a mock Supreme Court argument.

With continued help from the bench, sponsors, and the bar, this well-received program will resume this Fall.

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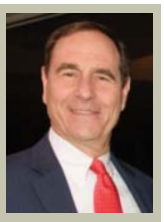

mshipow@socal.rr.com

OUR INAUGURAL HIGH school constitutional law program, *The Constitution & Me–True Threats v. Pure Speech: Drawing the Line between Safety and Freedom*, is now history as students from Monroe, Taft and Canoga High Schools have taken full advantage of the opportunity to study and debate the interplay between our Constitution and speech in a school environment.

Our goal was to get students to think about the problems high school students, teachers, administrators, and indeed all of us, are facing in this age of non-stop social media and cyber-bullying. We wanted students to explore the Constitution's free speech provisions and gain insights into how those provisions relate to students and to society today.

I think we succeeded in our goal. As part of the program, we invited students to pen essays about various aspects of their experience. The resulting works reveal some pretty insightful, critical thinking about free—or not so free—speech in an academic environment.

For one thing, students learned that things are not as clear-cut as we sometimes believe. One stated: "The program gave me a much better understanding of the United States judicial system and how legality is not always truly right or wrong, but rather in a sort of 'gray area' that allows attorneys to argue the case from both sides."

According to another student, "Everything you say and do is up for interpretation. The way you interpret situations and use them to argue for your side is something I never considered. I thought that the law was the law and that was it. However, when it comes to law and courtroom, this is far from true. I learned that everything you say or do is up for interpretation and argumentation."

It has been encouraging to see that many students also came to recognize they have an obligation in our society to think critically, not just blindly follow what others say.

As one student wrote: "I think the biggest thing I'll take away from this program is that sometimes you have to question whether a law is right because sometimes they can be wrong. As a society we are always evolving and changing what we believe, which is why we have a system and Constitution that can be changed."

The essays also reflected a healthy dose of critical analysis about students' constitutional rights, or perceived lack thereof.

One student observed that, "Students usually get the short end of the stick when it comes to their rights and overall politics. Such as in school, once you enter the campus all of your inalienable rights are stripped away and you have no say in it." Another commented that "the public school system likes to play with their cards only, and doesn't give the students any. Expanding the First Amendment in schools should be permitted, because it allows the youth to express themselves how they feel no matter what the concept."

Reflecting our goal to create an environment of independent thinking, at least one student disagreed, writing that: "Although the schools are limiting rights, it is completely justified. Students go to school to learn, and these distractions interrupt that. If the schools can limit the distractions by limiting the First Amendment, where is the harm?"

And it was rewarding to know that the students did not treat this experience as just a theoretical exercise. "As we went more into depth with the cases," one wrote, "I realized that because of the likelihood of the events of the case actually happening, it would be best for me to consider the cases seriously and argue as I would if the case involved me directly."

Yet another student recognized how close the case hypothetical was to reality.

"As emojis play a bigger role in everyday speech and language, there's a new basis we have to set for them, principally when dealing with adolescents. Adolescence comes with a tendency to make rash decisions, especially if they're made in anger, which is why cases involving the speech that adolescents use isn't always a black-and-white subject."

One more reflected: "My experience with participating in the program aided me in learning to consider my actions more carefully. Communication that involves social media and emojis, especially on social media, can have a significant impact, which most adolescents forget to consider before making a post."

It seems to me our students accorded themselves admirably in a valuable learning experience. The future of our society looks bright indeed.

VCLF is awarding cash prizes to the best essays, as part of our effort to encourage students to participate and think critically. You can help by making a donation by check to the Valley Community Legal Foundation, or directly on-line at www.thevclf.org.

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Taylor F. Williams
SCVBA President-Elect

twilliams@donahoeyoung.com

THE SANTA CLARITA VALLEY Bar Association (SCVBA) is excited to resume its regular monthly column in *Valley Lawyer* magazine!

SCVBA has been very busy over the past several months under the leadership of Claudia McDowell, President; Barry Edzant, Treasurer; Christine Reynolds Inglis, Secretary; April Oliver, Jeff Armendariz, Cody Patterson and Luke E. Rowe, members at large; Samuel R. W. Price, our liaison to the San Fernando Valley Bar Association; and myself as President-Elect.

For example, on April 11, 2019, we hosted our 7th Annual High School Speech Competition. The Competition featured juniors and seniors throughout the William S. Hart School District with students presenting their speeches on the topic of affirmative action—specifically, given that affirmative action remains upheld by the U.S. Supreme Court, how much weight should colleges and universities seeking diversity on campus apply to academic merit and extra-curricular achievement versus socio-economic factors when evaluating student applications for admission?

The three winners presented their speeches at the SCVBA's Scholars and Bench Night with Los Angeles Superior Court Presiding Judge, the Hon. Kevin C. Brazile, providing the membership a view from the top bench on the current state of the county's court system.

On June 6, 2019, the SCVBA will host an MCLE luncheon featuring Use of Force- Legal Update. The presentation, given by Luke E. Rowe of Donahoe & Young, LLP, cover the basic legal guidelines regarding the use of force by police and the problems with stop and frisk policies and relevant 9th Circuit rulings. All SCVBA and San Fernando Valley Bar Association members are encouraged to attend.

SCVBA will host its annual Awards Installation Gala on November 14, 2019, to welcome in our new board members and celebrate the work performed by the 2018 board. It is a beautiful evening with food and fun.

Again, all SCVBA and San Fernando Valley Bar Association members are encouraged to attend.

In addition, we recognize the importance of partnering with the local community and, to that end, SCVBA is involved with several charitable events including a Red Cross blood drive, Teen Court, and our annual Winter Toy Drive.

We invite members of our sister organization, the San Fernando Valley Bar Association, to participate and network. Review our event calendar on our website at www.scvbar.org.

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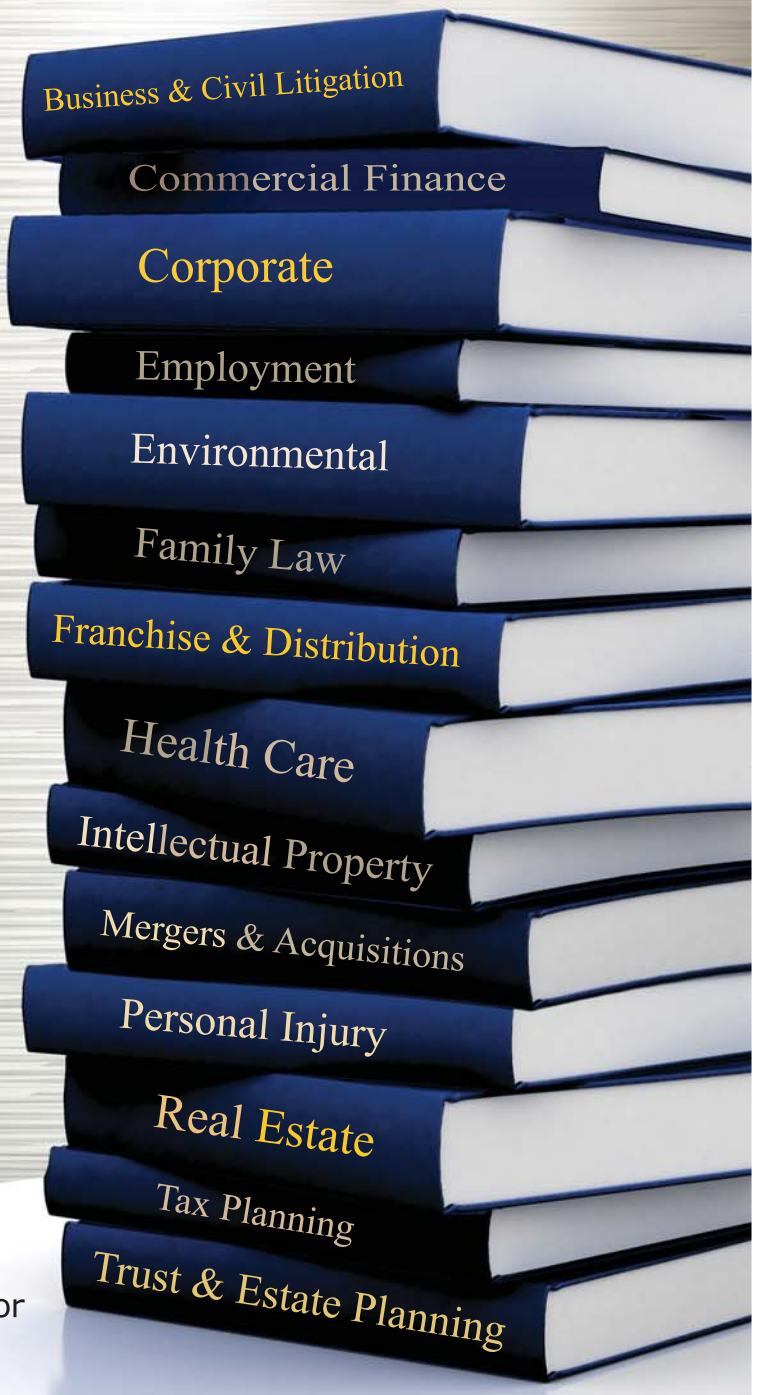

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