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JANUARY 2023 • \$5

A Publication of the San Fernando Valley Bar Association

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Not Back:  
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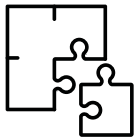
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# VALLEY LAWYER

## SAN FERNANDO VALLEY BAR ASSOCIATION

20750 Ventura Boulevard, Suite 104  
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Phone (818) 227-0490  
Fax (818) 227-0499  
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### GRAPHIC DESIGNER

Marina Senderov

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# Happy New Year!

**MATTHEW A. BREDDAN**  
SFVBA President



[MBreddan@ReapeRickett.com](mailto:MBreddan@ReapeRickett.com)

**F**AREWELL 22. WELCOME 23. HERE'S WELCOMING the New Year! And wishing SFVBA members, the legal community and all of our community the best in the year ahead. No doubt there will be challenges.

We are in the midst of an era. This era had its nascence in late 2019 with first news of the corona virus, and quarantining of cruise ships due to corona viruses on board. But there had been several virus outbreaks in the recent past. (SARS, Norovirus, Ebola, Mers, West Nile). For a while, Corona Virus in the news was background noise.

The approach of 2020 was a time of optimism. We were supposed to see things "2020." An election was coming. And the Olympics. For the first time in a decade, the designers of celebratory New Year's Eve eyeglasses did not have to bend themselves and their party props out of shape to make space for people's eyeballs.

Thinking back, it seems like everything changed in January that year, when a helicopter crashed in our community, in Calabasas, taking the lives of nine people, one of them famous.

For three years since then, in many ways our world went sour. There were business closures, theatres closed, stay at home orders, killings, riots, defunding police, homelessness, increased political divide, Monkeypox, inflation, and war.

Births happened in isolation in silent maternity wards. Kid's birthday parties were drive-by events. Weddings were postponed. Businesses failed. Hugging became a fraught. Shaking hands too. And the Queen died, who everyone thought would live forever. It was enough to make anyone just a little depressed, maybe more.


But people are resilient, and strong. We do not go gentle into the night. We naturally fight back, climb out and try to return to normalcy. Even if it is a new normalcy. We try to make life better than before.

So for 2023 we have reason still for optimism. Many of us were vaccinated or infected and survived, or both. Those not vaccinated or infected, take comfort that so many others have been and there is reduced spreading of disease. The Crispr technology that brought vaccines, is going to work for other viruses too. Businesses are open. Theatres are open. *Top Gun* and *Avatar* are doing well. Courts are open, even if appearances are by *Zoom*. The herky-jerky wheels of divided government are turning. People are celebrating life's events.

If you favored overturning *Roe*, 2023 will be the first year under the new rule of *Dobbs*. If you favored *Roe*, have hope. States—California and elsewhere—are pushing back. Whichever political party you favor, your party began 2023 with victory in the House of Representatives. And here in Los Angeles and the Valley, the new Mayor is calling attention to and fighting homelessness.

The Bar Association recently installed new Officers. It was a warm and welcoming event, our first installation get together after a while. <https://sfvba.org/about-us/board-of-trustees/>. That, too, was a hopeful sign. SFVBA is conducting MCLE and social events. The Valley Community Legal Foundation, our charitable arm, is operating. <https://thevclf.org/> So is Mediation Center of Los Angeles, [www.mediationla.org/](http://www.mediationla.org/) created by SFVBA to conduct low cost mediations, and help ease the L.A. Courts' caseload.

During all this time, of tribulations and trials, lawyers continued to represent clients in writing contracts, negotiating leases, drafting wills and trusts, adopting children, defending the accused, advocating to government and in court. As always in the past, and ever into the future, lawyers have served in centrally, critically huge parts of the solutions to what ails our society, fighting back and helping us push past, into the future.

You can read about some of this, in this month's issue and every issue of *Valley Lawyer*!. Thanks for reading. 

**WISHING SFVBA MEMBERS, THE LEGAL COMMUNITY AND  
ALL OF OUR COMMUNITY THE BEST IN THE YEAR AHEAD!**



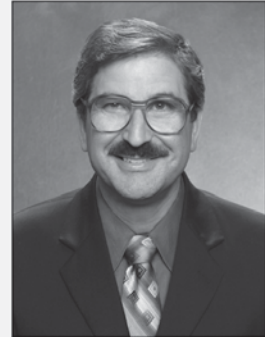
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## A Busy Year Ahead

**H**APPY NEW YEAR! AS 2023 begins, I want to let you know SFVBA will have a full range of activities for our members in the year ahead.

Our sections are active. Please see the list of sections and section chairs on page 6.

Sections provide an opportunity for you to network with fellow members in your field, gain valuable knowledge in your area of practice, or a subject area that interests you, and if you are a speaker to share your knowledge and let others know about your skills and expertise.

Our sections are also great pathways to leadership in the SFVBA.

The Attorney Referral Service makes referrals to clients who need a lawyer. Joining our panel of attorneys is an opportunity for you to provide a service to the public who need lawyers, and to keep your practice busy.

Our Bar Association has many more ways to get involved. This especially includes committees like Membership & Marketing and the Editorial Board that helps produce this magazine. Committees provide another a way to meet fellow bar members, serve the Association and the community, hopefully in an activity that interests you.

Of course, *Valley Lawyer* is our award winning monthly magazine that helps you stay informed about developments in the law affecting lawyers in our community. Writing an article for *Valley Lawyer* is a service to the legal community and positions you

as an expert in your field. We encourage members to write for *Valley Lawyer*. Contact Editor Michael White at michael@sfvba.org or Editorial Committee Chair David Gurnick at dgurnick@lewitthackman.com if you are interested.

“


Writing an article for *Valley Lawyer* is a service to the legal community and positions you as an expert in your field.”

Over the coming year we will offer opportunities to help the Court settle cases, networking, social events, and even helping provide blankets to people experiencing

homelessness. If there is a service or activity you would like our Bar Association to consider providing, contact any of our officers or trustees, or me.

The world will be busy in the coming year. Our courts will be busy. Lawyers will be busy. SFVBA will be busy serving you, helping you be as busy was you want.

Throughout the year, and especially between board meetings the SFVBA's officers comprise the Association's Executive Committee (or Ex-Com).

The committee includes the President, President-Elect, Secretary, Treasurer, and immediate Past President, together with the Executive Director. 

**MATTHEW A. BREDDAN**  
SFVBA President



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**TUESDAY, JANUARY 24**  
5:30 PM

Early Evening with Nicholas Van Brunt and Jeff Marvan:  
**THE TOP TEN TRUST AND ESTATE DEVELOPMENTS FOR 2022**

Nick and Jeff will discuss 5 cases from 2022 and 5 legislative developments from 2022 that every trust and estate practitioner should be aware of as we enter the year of the rabbit. (1 MCLE Hour)



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SUN	MON	TUE	WED	THU	FRI	SAT
<b>2023</b> HAPPY NEW YEAR SFVBA OFFICES CLOSED		3	4	<b>5</b> ZOOM MEETING Membership and Marketing Committee 6:00 PM	6	7
8	<b>9</b> ZOOM MEETING Editorial Committee 12:30 PM	<b>10</b> WEBINAR Probate and Estate Planning Section <b>What You Need to Know About California's New Non-Uniform Partition Rules</b> 12:00 NOON Jennifer Felten leads the discussion. (1 MCLE Hour)				14
15	<b>16</b> SFVBA OFFICES CLOSED 	<b>17</b> WEBINAR Taxation Law Section <b>US Treasury's Office of Foreign Asset Control (OFAC)</b> 12:00 NOON Attorney/CPA Zaher Fallahi will present a discussion on the rules and regulations imposed by US Treasury's Office of Foreign Asset Control (OFAC) on financial transactions with certain countries. What is OFAC and what does it do? Who is subject to these rules? What are the legal ramifications for noncompliance? What are the sign(s) that your client has an OFAC issue? (1 MCLE Hour)	<b>21</b> JOIN SFVBA FOR A NEW YEAR'S Celebration Party MEET THE 2023 PRESIDENT AND TRUSTEES MINGLE WITH LEGAL LEADERS, JUDGES, LOCAL BUSINESSES AND MORE! THURSDAY January 12, 2023 5:00 PM 100% OUTSIDE LARSEN'S STEAKHOUSE - PATIO 6256 TOPANGA CANYON BLVD. WOODLAND HILLS, CA BEVERAGES & APPETIZERS SERVED SPACE IS LIMITED			21
22	<b>23</b> WEBINAR Family Law Section <b>New Laws</b> 5:30 PM Lionel Levin and Robert Schibel once again give their annual update, an important webinar for all family law legal professionals. (1 MCLE Hour)	<b>24</b> ZOOM MEETING Mock Trial Committee 6:30 PM  SPECIAL WEBINAR Probate and Estate Planning Section <b>Early Evening with Nicholas Van Brunt and Jeff Marvan: THE TOP TEN TRUST AND ESTATE DEVELOPMENTS FOR 2022</b> 5:30 PM Nick and Jeff will discuss 5 cases from 2022 and 5 legislative developments from 2022 that every trust and estate practitioner should be aware of as we enter the year of the rabbit. (1 MCLE Hour) See ad on page 9	25	<b>26</b> WEBINAR All Members <b>Boosting Your California State Trial Court Win Rates With Legal Analytics</b> 12:00 NOON Sponsored by <b>trellis</b> Free to All members. Nicole Clark, CEO of Trellis will review how legal analytics enables you to analyze the behavior and history of your judge, competitive counsel, prospects and clients to gain crucial insights into litigation history and ruling tendencies. She'll show you how to leverage California state trial court- and verdict-data to be more efficient, more proactive, and achieve better results for your clients. You'll learn how to maximize legal analytics to gain a competitive advantage, win cases and bring in more money when litigating in California state trial courts. (1 MCLE Hour) See ad on page 41	27	<b>27</b> SPECIAL WEBINAR All Members <b>Specialty Credits Two Hour Webinar</b> 12:00 NOON Judge Mary Thornton House, Ret. will lead a lively and interactive discussion regarding Implicit Bias which will fulfill the State Bar's recently mandated MCLE Hour of Elimination of Bias with the focus on Implicit Bias and the promotion of bias reducing strategies. (1 Hour Elimination of Bias: Implicit Bias) This will be followed by an insightful and entertaining discussion of Social Media and Ethical Issues led by SFVBA Executive Committee Board Member Amanda M. Moghaddam (1 Hour Legal Ethics)
29	30	31	 <b>Free Fastcase Webinars</b> <i>Get the most out of Fastcase</i> All SFVBA Members have access to Fastcase <a href="https://www.fastcase.com/blog/free-fastcase-webinars/">https://www.fastcase.com/blog/free-fastcase-webinars/</a>			



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

By Barry P. Goldberg

# California Car Culture: Auto Liability and Driving Responsibly

In days past, even without many paved roads, California was concerned about the automobile taking over the state and causing injury and damage. That takeover has come to pass, and legislation is finally taking shape that would protect the state's responsible drivers.





**E**VERY DRIVER IN CALIFORNIA KNOWS THAT one must maintain the mandated minimum auto liability limit of at least \$15,000 per person, \$30,000 per accident, and \$5,000 property damage limit or risk suspension of driving privileges.

Every person who has been in a significant accident—and every personal injury lawyer in the state—knows that California’s ‘15/30/5’ mandate is hopelessly too low and outdated.

With good reason, daily, we see accident victims going without adequate compensation for injuries, medical bills, and property damage losses.

In fact, the state’s minimums were established in 1974 and have not increased in nearly half a century.

However, help is on the way as the legislature has finally raised the minimum limits and Governor Newsom has signed it into law. This was accomplished during a tidal wave of new laws being signed and without adequate fanfare and public education.

Effective January 1, 2025, California will once again become a leader with the passage of SB 1107—\$30,000 per person, \$60,000 per accident, and \$15,000 for property damage. These revised amounts are expected to be adequate for most “standard” automobile accident claims.

The delay gives the insurers sufficient time to calculate rates and apply for the premium increases.

Inserted into the law is a built-in increase on January 1, 2035, to \$20,000 and \$40,000 for bodily injury or death of one person and all persons, respectively, and by \$10,000 for property damage.

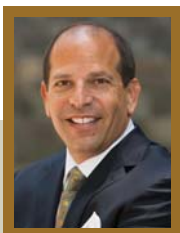
Although the increases seem only logical and natural, the new minimums will have wide ranging impact on all California drivers, including higher rates and more uninsured drivers.

### Addressing “Irresponsible Drivers”

In days past, even without many paved roads, California was concerned about the automobile taking over the state and causing injury and damage.

There is a true story about a small town that had just two automobiles, which crashed into each other causing serious injuries.

California first enacted a financial responsibility law in 1929, which, like those that followed, required all drivers to be “financially responsible”—usually by means of insurance—for any injury they caused while driving.



**Barry P. Goldberg** has more than 35 years of experience as a personal injury attorney with a particular emphasis on automobile accidents and insurance coverage. A Past President of the San Fernando Valley Bar Association, his practice is based in Woodland Hills. He can be reached at [bpg@barrygoldberg.com](mailto:bpg@barrygoldberg.com).

However, enforcement of the requirement was triggered only when the driver was at fault in an accident causing either bodily injury, or property damage more than \$100. This was later amended to \$200.

Even then, there was no sanction for failing to have insurance if the driver was able to post a bond in an amount determined by the Department of Motor Vehicles (DMV) to be sufficient to meet the likely liability.

Failure to either post a bond or provide proof of financial responsibility resulted in the suspension of driving privileges.

The law was largely ineffective, with Californians running a significant risk of death, injury, and substantial property damage without the ability to receive any compensation. In fact, the law—not being a compulsory insurance program—allowed every motorist one accident before having to prove the ability to pay for any damages they may have caused.

With the explosive increase in motor vehicle ownership and traffic in California after World War II—especially so in the San Fernando Valley, the nation’s first true suburb—the risk of traffic collisions resulting in death or serious injuries to innocent victims became a serious social problem.

In 1959, the situation was basically declared an emergency because about 4 percent of the state’s drivers were uninsured with the financial losses that ensued deemed unacceptable.

### New Era, New Law

Rather than mandate liability insurance, California enacted one of the nation’s first “*Uninsured Motorist Laws*.”<sup>1</sup>

The basic purpose of the uninsured motorist statute was to minimize losses to those who are involved in accidents with uninsured or financially irresponsible motorists.

Under the statute, at least some coverage is afforded an insured person with injuries caused by an uninsured or underinsured motorist.

The effect of the statute was to guarantee to insured motorists the minimum financial responsibility under their own policy for injuries resulting from a collision with another party who either has no automobile liability insurance or has insurance with insufficient limits.

Fast forward through the 1960’s into the 1970’s, California car culture had taken over and California smog and traffic had become legendary. With the increased dependence on motor vehicles, both the number of “financially irresponsible” drivers and drivers that chose to



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delete uninsured motorist coverage grew to a once again emergency level where Californians were at huge risk of death, injury, and substantial property damage without the ability to receive fair compensation.

In 1974, the financial responsibility law was amended to require the posting of a bond or the filing of proof of financial responsibility whenever a driver was involved in an accident resulting in either bodily injury, or property damage exceeding \$200, regardless of fault.<sup>2</sup>

Other than commercial fleets, that mandatory law meant that drivers possess liability insurance in order to drive in California.

The minimum limits were \$15,000 per person, \$30,000 per accident, and \$5,000 property damage limit, and it was anticipated that these minimum limits would easily cover most, if not all, accident claims for years to come.

A little perspective. In 1974, the average house cost \$10,990, and the median income hovered around \$13,900 per year, while the average price of a new car was \$3,750.00, a gallon of gas cost 55 cents, and medical costs were a mere fraction of what they are today.

Consequently, jury verdicts and settlements were a small percentage of what we see today. In effect, that year, California motorists were well—protected by the state's required minimum limits.

Ten years later, the Legislature, still concerned that too many motorists still were not "*financially responsible*," enacted the Robbins-McAlister Financial Responsibility Act (1984 Act).

In addition to the requirements of prior enactments, the new Act allowed a peace officer to request proof of financial responsibility "*whenever a notice to appear is issued*" for any alleged moving violation with the failure to provide such proof itself an infraction.

However, if it is established that the driver was actually financially responsible at the time in question—notwithstanding the lack of written evidence—the citation would be dismissed. If such proof was not forthcoming, the driver was subject to a fine ranging from \$100 to \$240.

Moreover, within 60 days of that conviction, the driver is required to provide proof of financial responsibility—and maintain it for three years—or the individual's driver's license would be suspended.

The law was largely a failure because it was selectively enforced, and the number of uninsured motorists continued to rise.

Many attempts have been made over the past 30+ years to both raise the state minimum liability limits and address uninsured motorists, but all efforts have failed or been blocked with the insurance industry seemingly content with the relatively low minimum limits.

Insurers pay the minimums on large claims and save adjustment costs, while, at the same time, rates have steadily increased.

## California's Present "Emergency"

It is estimated that between 16 percent and 20 percent of all California drivers are uninsured. This translates into between 2 and 4 million uninsured drivers on the road.

In some neighborhoods, the number of uninsured drivers are as high as 80 percent. That means that, any given time, there is a 1-in-5 chance that a driver involved in an accident in California is uninsured, while numerous studies have shown that uninsured drivers are more likely to cause accidents, injuries, and death.

Consensus among San Fernando Valley personal injury lawyers is that a whopping 50 percent of all accidents are either uninsured or underinsured.

Although the exact numbers are not known, most California drivers appear to purchase the minimum liability limits 15/30/5, or, in other words, not enough liability coverage in most instances.

California was among only three states with the lowest financial responsibility limits in the country.

Consider that the average new car in the state today is about \$40,000, or more than 10 times the average cost in 1974, with a scratch on a bumper that can cost \$5,000, and a visit to the emergency room, and reasonable follow-up care, can eat up a \$15,000 limit without regard to lost earnings, pain, and suffering.

Had the 1974 minimums been adjusted for cost-of-living increases reflected in the Consumer Price Indexes, the 2022 minimums would be about \$50,000 per person, \$100,000 per accident and \$20,000 property damage, or probably enough to handle 98 percent of all accident claims.

## "Underinsured Motorist" On the Rise

There is a basic calculation to determine if a claim is legally "underinsured."

It is a simple matter of comparing the insured's Uninsured Motorist Liability limits to the available third-party liability limits.

If the Uninsured Motorist limits are higher than the amount of the available third-party liability limits, the uninsured motorist coverage transforms into "underinsured" motorist coverage for the difference between the two policies.

For example, if the third-party maintains the current state minimum of \$15,000 per person and the insured maintains a higher uninsured motorist liability limit of \$50,000 per person, then there will be an additional \$35,000 of available coverage over and above the \$15,000 minimum.

Underinsured Motorist cases have become cumbersome for both the insurers and personal injury practitioners because the rules are fragmented and confusing with many very experienced counsels now handling underinsured motorist claims—and all that comes with them—for the very first time.

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## California's New Minimums

On September 29, 2022, Governor Newsom signed SB 1107—one of hundreds of new laws signed all at once to avoid time out vetoes—into law without much fanfare.

Effective in 2025, California will once again become a national leader with the passage of SB 1107, which sets new auto insurance minimums of \$30,000 per person, \$60,000 per accident, and \$15,000 for property damage—revised amounts that are expected to be adequate for most “standard” automobile accident claims.

However, one can see that the increased amounts do not keep up with the cost-of-living increases of the original 1974 minimums.

Inserted into the law is a built-in increase that takes effect on January 1, 2035, of \$20,000 and \$40,000 for bodily injury or death of one person and all persons, respectively, and \$10,000 for property damage, \$50,000 per person, \$100,000 per accident, and \$25,000 for property damage.

The future increase was made part of the bill to avoid the 50-year deadlock that created our current auto liability insurance “emergency.”

The effect of the new minimums will be widespread. First and most obvious, is that auto insurance rates will rise rather dramatically. Initial estimates speculated that the cost of a minimum policies would rise by about \$400.

However, those estimates are probably low for several reasons as insurers will be paying out more on claims, and will no longer be able to quickly cap their losses at \$15,000 for many claims. Second, the cost of adjusting claims will rise significantly with insurers loading more work on to adjusters for claims in excess of \$15,000.

Such costs will include costs of investigators, defense attorneys, and defense medical exams. Third, more cases will be filed in order to obtain in excess of \$15,000 which, under the current minimums, is avoided by the insurer simply paying the low limits.

An undesired by-product of higher insurance rates is that the number of uninsured motorist cases will rise dramatically.

California drivers are currently struggling to pay for liability insurance, and, with higher costs for insurance, it is axiomatic that as fewer people will be able to afford insurance, the number of uninsured motorists will rise.

In addition, these higher rates will appear as Californians are experiencing the impacts of significant inflation.

Many will choose to pay rent or feed their families, rather than pay for insurance.

Several consumer groups opposed SB 1107 contending that it would disproportionately affect the poor and create more uninsured, while, in fact, those same groups have, for decades, successfully blocked all legislation to raise minimum limits.

By 2022, even insurers had come to realize that having the same limits as in 1974 was unsustainable in the long run, and was simply not good for business with the backlash becoming palpable from injured consumers being routinely shortchanged after their accidents.

## A Dangerous Gamble

Although there will undoubtedly be an increase in the number of uninsured claims, in all likelihood there will be fewer “underinsured” claims because the third-party minimum limits will be higher and be able to cover most claims.

To anticipate the coming changes, it is recommended that all California drivers make certain that they have uninsured motorist coverage.

Deleting such coverage is a dangerous gamble that, over time, will significantly increase the risk of being involved in an accident where there is no insurance coverage whatsoever.

It is also recommended that California drivers start now to shop their auto insurance, especially at renewal time.

It is important to take advantage of all discounts offered by insurers, like bundling home and auto with the same company, and it is anticipated that auto insurance may actually prove to be cheaper for existing customers insured before 2025. 🛖

<sup>1</sup> Insurance Code § 11580.2.

<sup>2</sup> Vehicle Code § 16020, et seq.

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# California Car Culture: Auto Liability and Driving Responsibly

## Test No. 171

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

1. The current minimum automobile liability limits in California are \$10,000 per person, \$20,000 per accident, \$5,000 property damage.  
☐ True ☐ False
2. In addition to the requirements of prior enactments, the 1984 Robbins-McAlister Financial Responsibility Act added the following to encourage drivers to be financially responsible: Allowing a peace officer to request proof of financial responsibility "whenever a notice to appear is issued" for any alleged moving violation.  
☐ True ☐ False
3. Prior to 1974, a California driver was required to show proof of financial responsibility or risk suspension of the driver's license only after the driver had at least one accident previously.  
☐ True ☐ False
4. California first enacted a financial responsibility law in 1929.  
☐ True ☐ False
5. California's new automobile liability limits will go into effect January 1, 2024.  
☐ True ☐ False
6. California first mandated automobile liability insurance in 1974.  
☐ True ☐ False
7. California's Uninsured Motorist Law come into effect At the same time that automobile liability insurance became mandatory.  
☐ True ☐ False
8. In 1959, 10 percent of the state's drivers were uninsured.  
☐ True ☐ False
9. The purpose of the California Uninsured Motorist Law was to provide at least some coverage is afforded an insured person with injuries caused by an uninsured or underinsured motorist; minimize losses to the people of California who are involved in accidents with uninsured or financially irresponsible motorists; and guarantee to an insured motorist the minimum financial responsibility under his or her own policy for injuries resulting from a collision with another party who either has no automobile liability insurance or has insurance with insufficient limits.  
☐ True ☐ False
10. After 1959, the number of uninsured drivers in California increased dramatically.  
☐ True ☐ False
11. The new minimum automobile liability limits in California are \$30,000 per person, \$60,000 per accident, and \$15,000 property damage.  
☐ True ☐ False
12. In 1974, the average cost for a new car was \$3,750.  
☐ True ☐ False
13. Today, the number of uninsured drivers in California are estimated to be between 20 percent and 30 percent.  
☐ True ☐ False
14. Had the 1974 California minimum liability limits increased with the cost of living reflected in the Consumer Price Indexes, the limits today would be about \$100,000 per person, \$200,000 per accident, and \$50,000 for property.  
☐ True ☐ False
15. When the new minimum limits go into effect on January 1, 2025, insurance rates are expected to increase.  
☐ True ☐ False
16. Available "Underinsured" Motorist coverage is determined by By comparing the insured's Uninsured Motorist liability limits to the available third-party liability limits.  
☐ True ☐ False
17. With the new California minimum liability limits, Underinsured motorist claims are expected to be eliminated by the new higher limits.  
☐ True ☐ False
18. Under the new California minimum liability limits the cost of insurance is expected to rise because insurers will be paying out more on claims; insurers will no longer be able to quickly cap their losses at \$15,000 for many claims; and the cost of adjusting claims will rise significantly.  
☐ True ☐ False
19. California's first financial responsibility law was triggered whenever the driver was in an accident regardless of fault or damages.  
☐ True ☐ False
20. The penalty for failure to prove financial responsibility in California is Suspension of driving privileges.  
☐ True ☐ False

## California Car Culture: Auto Liability and Driving Responsibly MCLE Answer Sheet No. 171

### INSTRUCTIONS:

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

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

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.

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### ANSWERS:

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

1. ☐ True ☐ False

2. ☐ True ☐ False

3. ☐ True ☐ False

4. ☐ True ☐ False

5. ☐ True ☐ False

6. ☐ True ☐ False

7. ☐ True ☐ False

8. ☐ True ☐ False

9. ☐ True ☐ False

10. ☐ True ☐ False

11. ☐ True ☐ False

12. ☐ True ☐ False

13. ☐ True ☐ False

14. ☐ True ☐ False

15. ☐ True ☐ False

16. ☐ True ☐ False

17. ☐ True ☐ False

18. ☐ True ☐ False

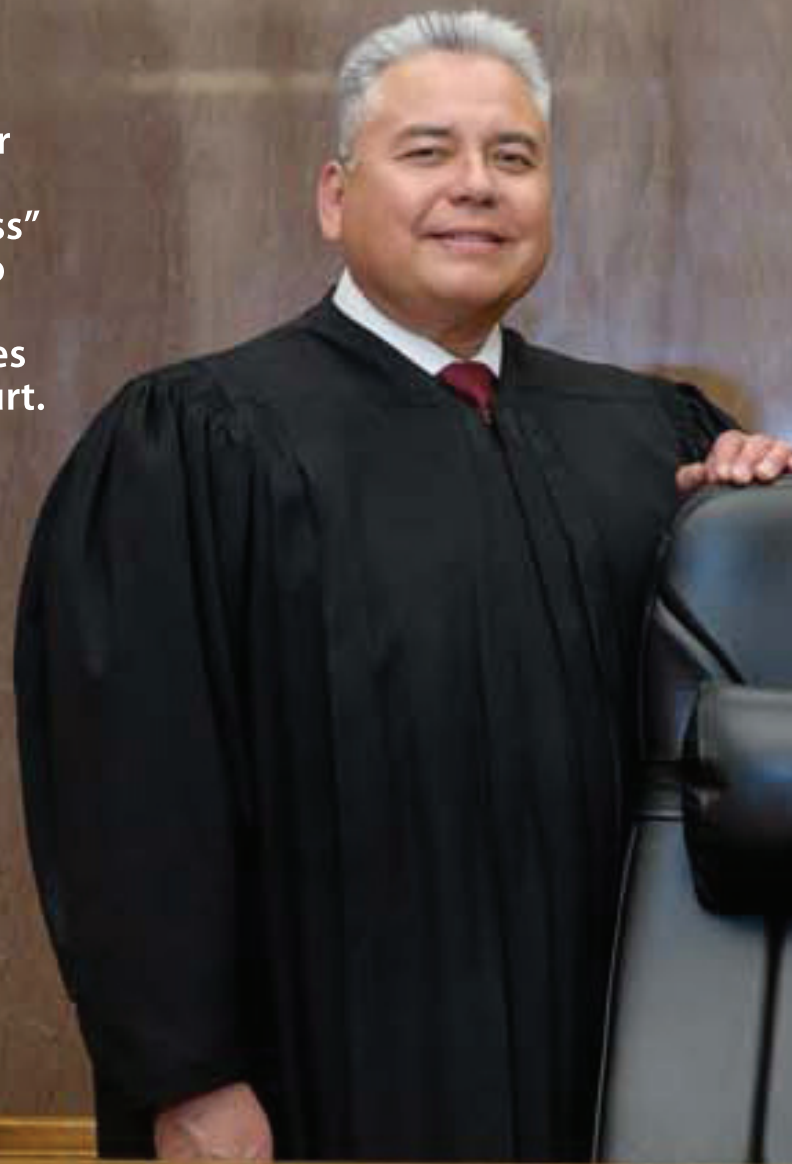
19. ☐ True ☐ False

20. ☐ True ☐ False

By Michael D. White

# Looking Forward, Not Back: New Leadership at the Los Angeles County Superior Court

Daughter of the first woman to serve as President of the Los Angeles County Bar Association, Hon. Samantha P. Jessner—described by her predecessor as “tireless” and “dedicated”—and Hon. Judge Sergio C. Tapia have taken the reins as the new Presiding and Assistant Presiding Judges of the Los Angeles County Superior Court.



*Photos by Ron Murray*





**T**WO YEARS AGO, THEN-INCOMING LOS ANGELES Superior Court Presiding Judge Eric C. Taylor spoke of the Court's then-new Assistant Presiding Judge, Hon. Samantha P. Jessner.

Judge Jessner, he told *Valley Lawyer*, "is tireless and dedicated to our Court's technological transformation. She is an outstanding educator and a dear friend."

During her tenure, Judge Jessner proved to be the motivating force behind the melding of innovative technology innovations into the Court's operations, as well as providing educational training on new technologies to hundreds of judges throughout the massive Superior Court network.

Fast forward to today as Judge Jessner assumes the post of Presiding Judge of the largest trial court in the nation.

One of 58 Superior Courts in California, the Los Angeles Superior Court is the County's only court, encompassing 88 cities, 140 unincorporated areas and more than 90 law enforcement agencies.

The Court currently serves a population of well more than 10 million people and includes 37 courthouses located in 12 judicial districts throughout the county's 4,752 square miles.

During the COVID-19 pandemic, Judge Jessner led the development of protocols to hear civil cases safely and effectively during the recent pandemic—developing jury selection methods and juror questionnaires, implementing remote appearance technology, and chairing the COVID-19 Advisory Committee with members of the bar.

Raised in the San Gabriel Valley in what she calls "a busy household with four siblings," with both of her parents navigating demanding careers in the law and medicine, Judge Jessner went on to graduate from Stanford University, where she received her undergraduate degree in political science before enrolling at University of California-Berkeley School of Law.

"I thought I wanted to go into politics until I spent a summer in Washington D.C. externing for a California senator," she recalls.

"My mother is a lawyer and was a trailblazer, becoming the first woman president of the Los Angeles County Bar among many other achievements. She appeared to not only love the practice of law but developed lifelong friendships with many people she knew in the legal profession."

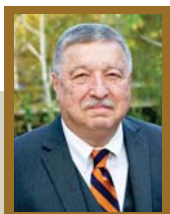
In short, she adds, her mother "was very happy and satisfied as a lawyer which provided me with a positive role model and a desire to go to law school so that I too could derive the same satisfaction from the legal profession."



Commenting on her experience at Berkeley Law, Judge Jessner lauds the school for not fostering "an intense or cut-throat environment. It provided an atmosphere conducive to learning about the law, figuring out what one wanted to do with one's law degree, and making lifelong friends from different and dynamic backgrounds."

All in all, she says, "Berkeley Law was a great place to attend law school. In addition, I was able to spend a semester in Los Angeles as an extern for a federal judge which was an invaluable experience."

With her mother as her inspiration and mentor, the partners at the law firm she joined after law school "believed in providing associates with practical experience such as participating in depositions, appearing in court, and meeting clients. Hon. Nora



**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](mailto:michael@sfvba.org).

M. Manella, who hired me at the U.S. Attorney's Office along with many other women and people of color, was invested in our success."

Did she ever think that she would be where she is today. "Never," she says, adding she spends her precious free time with her husband, two children, and good friends, filling the gaps with exercise, reading and travel.

### Goals Outlined

"We are committed to working together to make the LASC a model for other courts in California and the country and will endeavor to increase transparency and effective communication within and outside of the court," says Judge Jessner.

"In any successful organization, it is imperative that its members feel heard and valued. To that end, we will undertake to involve and consider diverse voices and viewpoints in developing court policy and short- and long-term strategy, both from within the court and the legal community.

"One of our mottos is 'all ideas are welcome.' We look forward to listening to our colleagues and the communities we serve and collaborating to enhance the presence and purpose of the LASC and our justice system more broadly.

In addition, she says, "We will support all judicial officers to be successful, fulfilled, and appropriately challenged during their tenure at the LASC and strive to encourage and facilitate judicial excellence by providing training, education, assignment opportunities, and more so that judicial officers can maximize their talents and achieve their goals during their careers with the LASC and after."

### Implementing New Technologies

A long-time proponent of folding new technology into the Superior Court's day-to-day operations, Judge Jessner is committed to, as she puts it, "continuing the Court's years-long technology revolution."

During her tenure, says Judge Jessner, the Court's leadership will be "dedicated to maximizing the positive lessons learned because of the pandemic. For example, given the continued and regular use of remote technology in certain disciplines to participate in court proceedings and access the services of the court, we know that attorneys, litigants, and other court users derive meaningful access to the courts through remote technology."

The wider benefits of remote access are evident, she says.

"For example, one does not need to take all or most of the day from work to travel to court, one does not have to pay for and take a train, bus, or other public transportation to get to court, one does not need to pay for parking or clog the freeways to access court proceedings, and the list goes on."

As a result, "We will continue to improve remote access to our courtrooms and court services and think about different ways to provide access to justice, given the lessons learned during the pandemic."

Are Los Angeles County bench officers satisfied with use of remote appearance technology?

"They appreciate the flexibility remote appearance technology provides and recognize that the technology has greatly improved since we were forced to pivot to heavy use of remote technology under circumstances in March 2020 that were far from ideal, especially for court technology innovation and implementation on a massive scale," she says. "Together, we will endeavor to use remote technology to deliver services and meaningful access to our courts for the public."

Judge Jessner credits a host of extensive and expansive technology innovations over the last decade—new case management systems; electronic filing; traffic kiosks to pay fines and access other court services; online dispute resolution opportunities; *Gina the Avatar*, which provides online assistance in multiple languages, remote self-help services, for example—for establishing the Los Angeles Superior Court as a leader, and award winner several times over, in court technology innovation.

"We will continue to build on that legacy, especially as we implement a new case management system and electronic filing in the court's largest discipline, Criminal," she adds. "Technology innovation has enabled the LASC to be flexible and agile in fulfilling its mission and providing myriad ways to access the court and its services. We will continue to build on making the court more easily accessible to all."

The Court, she says, "will continue to identify where backlogs resulting from the pandemic remain and work together to develop strategies to eliminate those backlogs and collaborate with our justice partners and stakeholders to address these backlogs while maintaining meaningful access to justice."

### Balancing the Workload

In addition to implementing the latest technologies to enhance the Court's capabilities, Judge Jessner pledges a commitment to "balancing the workload of judges across the LASC to enhance morale, satisfaction on the bench, longevity in assignments, and the prompt resolution of disputes."

In sum, she says, "There are many challenges in leading the court at this time. However, we strongly believe that every challenge presents an opportunity to identify issues or problems, work collaboratively to devise solutions to issues or problems, avail ourselves of the opportunity to think broadly and differently about what we do and how we do it, and ultimately and ideally develop a solution that makes sense and represents transparency and honesty in decision-making.

"We are lucky to enjoy the support of our colleagues and a collective enthusiasm to think outside the box in a way that promotes inclusion, diversity of thought, and a collective and meaningful commitment to fulfilling the mission of the court, which is to serve our community by providing equal access





to justice through the fair, timely and efficient resolution of all cases.”

### **Looking Forward and Maintaining a Valley Connection**

There is a sense the Superior Court is emerging from the pandemic, “therefore, we prefer looking forward rather than backward,” says Judge Jessner.

“In other words, rather than concentrating on ‘returning to a sense of normalcy,’ we choose to recognize that our world will never be the same as it was before February 2020. Still, we welcome the opportunity to think deeply and expansively about what our world looks like now and will look like in the future and how the legal system, specifically the LASC, will thrive under these new and different circumstances.”

Does the fact that fewer people are ‘in person’ at Los Angeles County courthouses create opportunities for improvements in any court services?

“The opportunities for improvements in court services are not necessarily created by fewer people physically present

in our courthouses,” she says. “We have a long history of consistently and continually recognizing opportunities for improvements in court services. The opportunities created because of the pandemic abound, and we are energized to identify and maximize improvement opportunities throughout the court.”

Regarding the impact of California’s court-related budget projections in the year ahead, Judge Jessner says she is “deeply grateful to Governor Newsom for recognizing the importance of equity in funding for all 58 trial courts in California. We are now approximately 91 percent funded. In contrast, for many years, Los Angeles was the 6th most under-funded court in California.”

Notwithstanding significant state revenue shortfalls, she adds, “The Governor’s proposed budget, which he recently released, reflects a continued commitment to funding the core operations of the trial courts and enabling the judicial branch to continue to provide equal and meaningful access to justice.”

Reflecting on her connection with the San Fernando Valley legal community, Judge Jessner has had the opportunity to attend the Bar’s annual ‘Judge’s Night’ on several occasions.

“The atmosphere in the venue exuded collegiality and civility,” she says. “It is a tight-knit, welcoming, and dynamic legal community with which we very much look forward to collaborating.

“Our doors are open...and we are grateful for the opportunity to continue working with the San Fernando Valley legal community.”

### **Able Assistance**

Serving alongside Judge Jessner over the next two years will be Hon. Judge Sergio C. Tapia, who will serve as Los Angeles County Superior Court’s Assistant Presiding Judge.

“We are here to serve the legal community throughout Los Angeles County and are privileged to lead the court together over the next several years,” says Judge Jessner.

In their previous roles as Supervising Judges, they both had regular contact with the San Fernando Valley legal community, “which was always welcome, productive, and collaborative.

Judge Tapia, she says, “spent time in the Burbank courthouse and his experience with the San Fernando Valley Legal community will be invaluable as we endeavor to serve that community.”

A deputy in charge at the Los Angeles County Alternate Public Defender’s Office, an office he joined in 2001, Judge Tapia was appointed to the L.A. Superior Court court in 2013, by then-Gov. Jerry Brown.

Judge Tapia was raised in Bell Gardens by Mexican immigrant parents and the first in his immediate and extended family to attend college—the University of California, Berkeley, where he earned his Bachelor of Arts degrees in Ethnic Studies and Political Science.

Following his graduation, he went on to graduate from University of Iowa School of Law.

"Attending law school in Iowa was a culture shock compared to my upbringing in Los Angeles and my college experience in Berkeley," he recalls. "The experience challenged my beliefs and broadened my perspective on life. I was fortunate to meet faculty members who took an interest in my success and motivated me to pursue my passions. These relationships and a rigorous curriculum laid a strong foundation for my professional success."

Judge Tapia began his legal career at the Legal Aid Foundation of Los Angeles, where "I met many exceptional lawyers who shared my passion for making a positive difference in people's lives. Two LAFLA attorneys stand out. Francisca Baxa was my first supervisor and taught me what it meant to be a successful professional."

"The Hon. Rosa Fregoso, who would later become my wife, encouraged me to apply to Legal Aid and has been a mentor, confidante, and constant source of inspiration throughout my legal career," he says.

"She has played a critical role in much of my success. I also had the privilege of working with incredible trial attorneys in the offices of the Public Defender and Alternate Public Defender. All of my mentors helped mold me into a successful trial lawyer and created a solid foundation to become a Superior Court judge."


An aside: Incoming Presiding Judge Jessner attended law school with Judge Rosa Fregoso.

Following his stint as a Staff attorney and AmeriCorps fellow at the Legal Aid Foundation of Los Angeles, Judge Tapia served in several positions of increasing responsibilities at the Los Angeles County Public Defender's Office including Assistant Deputy in charge of the Alhambra and Long Beach Branch offices, Deputy in charge of central trial support and coordinator of new felony attorney training and Senior Trial Attorney and Deputy Alternate public defender in the County's Alternate Public Defender's Office.

He currently serves on the Board of Directors of both the Mexican-American Bar Association and California Rural Legal Assistance Inc.

"I didn't know any lawyers or other professionals growing up. I thought I wanted to be a doctor without knowing what that entailed," says Judge Tapia. "When I got to Berkeley, I realized I was passionate about politics and wanted to effect social change."

"In my second year at Berkeley, I met Joaquin Avila, a lawyer, civil rights advocate, and former general counsel of the Mexican American Legal Defense and Education fund. He was soliciting volunteers to help with voting rights litigation."

"I had never met an attorney, a Latino attorney, or anyone as accomplished as him. It was an experience that convinced me to pursue a professional legal career devoted to using the law to improve people's lives." 

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By Craig B. Forry

# To Evict or Not to Evict:

## The Terms of the California Civil Code

**I**N A RECENT APPEAL IN THE MATTER OF *GROUP XIII Properties LP v. Stockman*, landlord attorney Dennis P. Block & Associates litigated with tenant attorney BASTA in a case where the tenant failed to pay rent, and the Court reviewed the application of the California Civil Code of Civil Procedure (CCP) to the facts of the case.<sup>1</sup>

The Code requires owners of rental property to make certain written disclosures to their tenants including, but not limited to, the name, phone number, and usual street address at which personal service may be effectuated for all people who are managers of the premises, owners, or persons authorized to act on behalf of the owner for the purpose of service.<sup>2</sup>

An owner, or the owner's authorized representative, is required to make the disclosure within 15 days of executing the lease or, if the lease is orally made, within 15 days of the agreement.

The information to be disclosed must be kept current such that the required disclosure extends to any successor owner or manager; the successor must comply with the

disclosure requirements within 15 days of succeeding the previous owner or manager.

A successor owner or manager is precluded from evicting a tenant for failure to pay rent if the tenant's default occurs during a period of noncompliance with the Civil Code.<sup>3</sup>

### Failure to Pay the Rent

The plaintiff Group XIII Properties LP prevailed on an unlawful detainer action against the defendant Michelle Stockman after the defendant failed to pay rent.

The defendant raised, as an affirmative defense, the plaintiff's failure to comply with the disclosure requirements of the Code arguing that the affirmative defense on two occasions—by moving for nonsuit before the jury was given the case, and a directed verdict after the jury was instructed.<sup>4</sup>

The trial court ruled the plaintiff “*substantially complied*” with the CCP and denied the defendant's motions.<sup>5</sup>

The defendant contended the trial court should have granted her motions, and the appellate court reversed the judgment because the successor owner/manager must strictly comply with the Code; and substantial compliance with its provisions is inadequate.<sup>6</sup>



Attorney **Craig B. Forry**, based in Mission Hills, has practiced for 38 years in the areas of family, divorce and real estate law. He can be reached at [forrylaw@aol.com](mailto:forrylaw@aol.com).

The defendant moved into the property located on Challenger Way in the City of Lancaster pursuant to an oral agreement with the owner, Infinity Challenger, LLC.

The property was subsequently sold by Infinity to the plaintiff on June 28, 2019, at which time it was managed by Pama Management, Inc.

Pama served the defendant a notice of change of management in a July notice, advising that IE Rental Homes (IE) was the new management company.

The July notice indicated rent was payable to IE by cashier's check or money order only, and that payment could be remitted to an office address in Palmdale; office hours were specified at the bottom of the notice, which was signed by "agent" Michael Garcia.

The defendant was served another change of management notice in December, this one identifying Bridge Management Inc. as the new management company.

Similar to the July notice, the December notice indicated rent was to be paid to Bridge by cashier's check or money order only, and that payment could be remitted to the same Palmdale office as the July notice; it did not, however, specify the times the office was open, and it did not identify any person as an owner, manager, or agent.

After failing to pay rent for January and February 2020, the defendant was served a three-day notice to pay rent in the amount of \$2,224.92, or vacate the premises. A payment ledger admitted into evidence showed the defendant was current on her rent through the end of December 2019 and that no rent was paid thereafter.

There was nothing in the record suggesting the defendant was served with a notice of change in ownership.

The defendant was not home when Madrigal attempted service of the July notice, so she posted it on the defendant's gate, then returned to the office and mailed a copy to her.

She was home at the time Madrigal attempted service of the December notice but she refused to accept it; Madrigal posted this notice as well on the defendant's gate and then mailed her a copy. Madrigal handwrote her name and telephone number on both the July and December notices prior to serving them.

The defendant denied ever receiving or being served the July and December notices, either posted on her gate or in her mailbox. She also denied being served the three-day notice to pay rent or quit.

She filed a motion for nonsuit arguing the plaintiff was not in compliance with the Civil Code when the defaulted rent was due because the December notice did not identify Bridge's agent for service of process or provide the agent's name, telephone number and "usual street address."<sup>7</sup>

The plaintiff maintained that, other than the change in management companies, the information on the July and December notices was essentially the same.

The plaintiff's counsel pointed out the July notice identified the agent and that Madrigal testified she handwrote her name and telephone number on the December notice.

The court gave the impression the issue turned on whether the jury believed Madrigal's testimony that she wrote information on the notice before serving it. In any case, the motion was denied.

On the following day, defense counsel renewed the motion for nonsuit, arguing that, per *DLI Properties, LLC v. Hill*, strict compliance with the mandatory notice provisions of the Code was required.<sup>8</sup>

The court, apparently reading from the CCP, stated: "*Disclosed therein the name, telephone number, and usual street address at which personal service may be effected of each person who is...*," then asked, "*Where does it say it actually has to say this is the address at which personal service may be effected?*"<sup>9</sup>

Concluding DLI Properties did not hold strict compliance with the Code was required—it just mentioned it in passing, the court ruled that the totality of the circumstances between what the defendant herself knew and the circumstances involved in all of this if the jury believes that there was information written on top of the notice.<sup>10</sup>

There was substantial compliance, and the court denied the motion on that ground.

### Move for Directed Verdict

Shortly after the jury was given the case, Gharagozli moved for a directed verdict on the same ground as the nonsuit motion; the court denied the motion for the same reasons.

The defendant contended the court should have granted her motion and renewed motion for nonsuit or issued a directed verdict in her favor.

While made at different times, motions for nonsuit, directed verdict, and judgment notwithstanding the verdict (JNOV) are analytically the same and governed by the same rules.

The function of these motions is to prevent the moving defendant from the necessity of undergoing any further exposure to legal liability when there is insufficient evidence for an adverse verdict.

Put another way, the purpose of motions for nonsuit, directed verdict and JNOV is to allow a party to prevail as a matter of law where the relevant evidence is already in.

A defendant is entitled to a nonsuit if the trial court determines that, as a matter of law, the evidence presented by the plaintiff is insufficient to permit a jury to find in his favor.

In determining whether the plaintiff's evidence is sufficient, the court may not weigh the evidence or consider the credibility of witnesses. Instead, the evidence most favorable to the plaintiff must be accepted as true and conflicting evidence must be disregarded.

The court must give to the plaintiff's evidence all the value to which it is legally entitled, indulging every legitimate inference which may be drawn from the evidence in the plaintiff's favor.



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The trial court is governed by the same standard in ruling on a motion for directed verdict.

Any owner of a dwelling structure specified in the Civil Code or a party signing a rental agreement or lease on behalf of the owner shall do all of the following: Disclose therein the name, telephone number, and usual street address at which personal service may be effected of each person who is authorized to manage the premises.<sup>11</sup>

An owner of the premises or a person who is authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for all notices and demands.

In the case of an oral rental agreement, the owner, or a person acting on behalf of the owner for the receipt of rent or otherwise, shall furnish the tenant, within 15 days of the agreement, with a written statement containing the information required.

The information required shall be kept current and this section shall extend to and be enforceable against any successor owner or manager, who shall comply with this section within 15 days of succeeding the previous owner or manager.

A successor owner or manager shall not serve a notice pursuant to the Code or otherwise evict a tenant for nonpayment of rent that accrued during the period of noncompliance by a successor owner or manager with this subdivision.<sup>12</sup>

### The Code's Plain Terms

The plain terms of the CCP required that the December notice advising the defendant of the change in management from IE to Bridge disclose, in writing, the name, telephone number, and usual street address at which personal service may be effected of each person authorized to manage the premises and each person who is an owner of the premises or a person authorized to act on the owner's behalf for the purpose of service of process and for the purpose of receiving all notices and demands.<sup>13</sup>

In other words, at a minimum, this mandates the notice—*identify* each person authorized to manage the premises could only be considered if it is clear that the defect is one which could not have been remedied had it been called to the attention of the plaintiff by the motion.

In other words, affirmance of an order granting nonsuit on a ground not argued to the trial court is prohibited unless the record establishes the flaw was not correctable by further proof. The respondent's alleged defect did not pass this test and was therefore not considered by the Supreme Court.

For written leases, the requirements that the disclosures be made in the lease, and that copies be provided to the tenant when the lease is executed and on a yearly basis thereafter upon request of the tenant, indicate the disclosures are to be made in writing.

As for oral leases, the requirements that tenants be furnished a written statement containing the disclosures when the agreement is made and on a yearly basis thereafter upon request of the tenant impose a similar requirement.

With regard to keeping tenants apprised of any changes in the information to be disclosed, the requirement that any successor owner or manager “*shall comply with this section within 15 days of succeeding the previous owner or manager mandates that notice of the changes be made within 15 days and, in compliance with the section,*” is that it be made in writing.

Even crediting Madrigal’s testimony that she handwrote her name and telephone number on the December notice prior to serving it, there is nothing on the notice that explains her connection to the property—for example, someone authorized to manage the premises, or a person authorized to act on the owner’s behalf.

Nor was there any written link between Madrigal and the street address of the Bridge office in Palmdale for the purpose of service of process, or of notices and demands, on Madrigal and/or service of process on behalf of the plaintiff. In fact, the Palmdale address is preceded by the language “*you can remit payment to...*” suggesting that the sole purpose of the address is limited to receiving rental payments.

The plaintiff’s response was to follow the trial court’s reasoning and argue substantial compliance, and maintain that the contents of the December notice—which identified Bridge as the new management company and specified the street address of its office in Palmdale—combined with Madrigal’s testimony that she handwrote her name and telephone number on the face of the notice, constituted proof that the notice substantially complied with the requirements of the Civil Code.<sup>14</sup>

### Compliance v. Non-Compliance

Substantial compliance means actual compliance in respect to the substance essential to every reasonable objective of the statute.

Where there is compliance as to all matters of substance, technical deviations are not to be given the stature of noncompliance.

Substance prevails over form. When the plaintiff embarks on a course of substantial compliance, every reasonable objective of the statute at issue has been satisfied.

Thus, the doctrine gives effect to our preference for substance over form, but it does not allow for an excuse to literal noncompliance in every situation.

The plaintiff argues substantial compliance buttressed by totality of the circumstances, including those beyond the four corners of the notice.

In this respect, the plaintiff points not only to the contents of the notice and Madrigal’s testimony that she wrote her name and number on the notice, but to her testimony that

her position as property manager had not changed with the plaintiff’s purchase of the property, and that the defendant had been paying rent directly to Madrigal who lived across from the defendant.

Presumably the disclosures required by the Code may be lessened to some degree for tenants who already know the identity of the property manager and where he or she resides.<sup>15</sup>

But it is difficult to excuse as “*technical deviation*” the failure of a successor owner or manager to make mandated disclosures where the finding of substantial compliance relies on the presumption that the information to be disclosed was already known to the person to be informed. The plaintiff has provided no legal authority to support such an understanding of substantial compliance.

Furthermore, the doctrine of substantial compliance does not apply at all when a statute’s requirements are mandatory, instead of merely directory.

A mandatory statute is one that is essential to the promotion of the overall statutory design and thus does not permit substantial compliance.

As this court wrote in *DLI Properties*, specifically with regard to the Code and the disclosures required of successor owners or managers before they can serve a three-day notice for nonpayment of rent or pursue eviction under the Civil Code, the legislative history makes clear the primary purpose for adding a subdivision to Section 1962 was to ensure successor owners and/or their managers would notify their tenants where they were to send rent payments so as to avoid evictions based on nonpayment of rent.<sup>16 17 18</sup>

### The Cost of Non-Compliance

In short, the legislative history of the Code, specifically of subdivision (c) of Section 1962, confirms that the provision is one that is essential to the promotion of the overall statutory design and thus does not permit substantial compliance.

Because compliance with the CCP is effectively a jurisdictional prerequisite to an unlawful detainer action, strict compliance with its provisions is required.<sup>19</sup>

The undisputed evidence demonstrates that the plaintiff was a successor owner or landlord. The plaintiff purchased the property from the prior owner, Infinity, at which time the defendant’s tenancy was governed by an oral agreement with Infinity.

Neither the plaintiff nor the defendant offered any evidence that a new and separate lease was executed or entered into by the parties subsequent to the plaintiff’s purchase of the property.

The evidence further showed that Bridge succeeded IE as the property management company, as set forth in the December notice, purportedly served on the defendant.

Under the CCP, the plaintiff, as a successor owner, and Bridge, as a successor manager, were required to comply with the Code within 15 days of succeeding the previous owner or manager.<sup>20</sup>



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Where, as here, the lease agreement was an oral agreement, compliance with this section consisted of serving the tenant a written statement containing the information required.


As detailed above, however, the December notice advising the defendant of the change of management from IE to Bridge did not provide the required information in strict compliance with the Code.<sup>21</sup>

As a result, the plaintiff, as a successor owner, was precluded from serving a three-day notice to pay rent or quit or otherwise evicting a tenant for nonpayment of rent that accrued during the period of noncompliance by a successor owner or manager with this subdivision.

This means the plaintiff was barred from doing exactly what it did here—for example, file a complaint in unlawful detainer premised on a three-day notice to pay rent or quit, seeking the payment of back rent that accrued during the period of noncompliance.

The court was found to have erred in denying the defendant's motions for nonsuit and a directed verdict, and the judgment was reversed.

Some lessons to be remembered:

- The CCP requires owners of rental property to make certain written disclosures to their tenants.<sup>22</sup>
- The information to be disclosed must be kept current such that the required disclosure extends to any successor owner or manager.
- The doctrine of substantial compliance does not apply at all when a statute's requirements are mandatory, instead of merely directory.
- A mandatory statute is one that is essential to the promotion of the overall statutory design and thus does not permit substantial compliance.
- A successor owner was precluded from serving a three-day notice to pay rent or quit or otherwise evicting a tenant for nonpayment of rent that accrued during the period of noncompliance by a successor owner or manager with this subdivision. 

<sup>1</sup> California Code of Civil Procedure § 1962.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> CCP § 1961.

<sup>12</sup> CCP § 1161 (2).

<sup>13</sup> CCP § 1962.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> CCP § 1161(2).

<sup>18</sup> CCP § 1962, subdivision (c).

<sup>19</sup> *Id.* § 1962. See, e.g., "landlord must strictly comply with the jurisdictional prerequisite of a valid three-day notice."

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* § 1962(a)(1).

<sup>22</sup> *Id.* § 1962.



**SMALL FIRM OPTIMISM:** According to the recent 2022 *State of U.S. Small Law Firms* survey conducted by Thomson Reuters, despite COVID, the economy, and the day-to-challenges of practicing law and managing a firm, smaller law firms have a bullish outlook on their future prospects.

Nearly six in 10 lawyers in small firms—which the survey defines as those of 29 lawyers or fewer—say they expect growth over the next 12 months in revenues per lawyer, billable hours, and profits per lawyer.

Across every metric — billing rates, productivity, realization rates — greater numbers of lawyers expect to see moderate or high growth over the next year.

The same holds true for the next three years, as small firm lawyers also expect high-to-moderate growth to continue in revenues, profits, demand for services, and other metrics.



As in past years, the survey finds that small firms face competition both from above and below, in that they see their competition not only as similarly sized firms, but also as larger firms and self-help legal websites.

*“The growing popularity of DIY legal websites continues to encroach upon small firms’ clientele,”* the survey found. *“The percentage of small firm lawyers who view such websites as major competitors took a significant jump in 2021 and has remained elevated in 2022. Such competition — readily accessible via computers and smartphones and viewed by consumers as a less expensive alternative to law firms — is putting the onus on small law firms to improve efficiency and client service.”*

The survey was conducted in collaboration with the American Bar Association’s Solo, Small Firm and General Practice Division.

**TALC JUDGEMENT:** Avon Products Inc. has been ordered by a California jury to pay \$10.3 million in punitive damages to a woman who blamed her cancer on talc in its cosmetics, in the first such case the company has lost in US litigation.

The Los Angeles Superior Court jury that punished Avon Friday for hiding the risks that some of its talc-based powders can cause cancer had already awarded Rita Chapman \$40 million in actual damages, bringing the total in the case to more than \$50 million.



In 2007, A Los Angeles jury issued a \$417-million verdict against Johnson & Johnson, finding the company liable for failing to warn a 63-year-old woman diagnosed with terminal ovarian cancer about the risks of using its talcum products.

**LAW SCHOOL RANKINGS:** Though 12 of the Top 14 law schools in the U.S. have recently announced they’re withdrawing from the *U.S. News & World Report* rankings process, some law school deans and others have expressed a bit of skepticism regarding how widespread and meaningful this trend will become.

Sounding that note more colorfully is *Bloomberg Law* columnist Vivian Chen, who calls this news *“a big nothing burger.”*

Why? Because, she writes, T14 schools know their place in the hierarchy is secure even without the rankings, but the situation among schools in the other tiers is more volatile and competitive, Chen writes—and many prospective students still turn to the annual rankings when choosing where to apply.

**FAST FOOD LAW:** *The Wall Street Journal* reports that a coalition of restaurant owners and business groups called Save Local Restaurants has said that it has filed more than 1 million petition signatures to put the FAST Recovery Act law on hold and place an initiative before California voters on the 2024 ballot.

The law could set the minimum wage for the fast-food industry as high as \$22 an hour this year and establish new workplace standards.



Gov. Gavin Newsom signed the legislation last September, saying the law *“would give fast-food workers a stronger voice in determining their wages and working environments.”*

The petitioners had until Dec. 5 to submit roughly 623,000 valid voter signatures to place a question on the 2024 ballot asking whether the law should take effect. If voters side against the law, it could be struck down.

The California Secretary of State is in the process of reviewing the restaurant groups’ ballot signatures to determine whether the coalition has submitted enough valid ones for a statewide referendum.

**JUDICIAL COUNCIL:** The California Judicial Council distributed \$12.5 million from its 2023 budget to continue modernizing trial court operations, improving online and remote services, and increasing access to justice for the public.

*“We’ve demonstrated that the judicial branch can make great use of technology funding,”* said Judge Kyle Brodie, who helped present the technology funding proposal as chair of the council’s Technology Committee. *“Our projects have dramatically increased the level of service to the public.”*

Ongoing state funding for court technology has expanded voice-to-text translation in clerks and self-help offices, electronic filing, hearing reminders, access to court records, and other technology services.



# Heating Up: California's Health Care M&A Market



**C**ALIFORNIA HEALTH CARE entities can expect increased scrutiny of future mergers, acquisitions, and other transactions following the passage of the California Health Care Quality and Affordability Act (HCQAA).

Effective April 1, 2024, a newly minted regulatory agency will review certain California health care deals for their impact on market competition and health care prices prior to closing.

Any health care entity considering a significant transaction in California should seek legal advice before attempting to navigate this new, complex, and potentially costly regulatory regime.

The HCQAA—signed into law on June 20, 2022 as part of Senate Bill No. 184—establishes the Office of Health Care Affordability (OHCA). OHCA is tasked with combatting rising health care costs and promoting competition in the California health care market.

Included in OHCA's broad grant of authority is the power to investigate anti-competitive consolidation among health care entities, which the California legislature has identified as a primary driver of escalating health care costs in the state.

To this end, California health care entities will be required to provide ninety days prior written notice to OHCA of any proposed merger, acquisition, corporate affiliation, or other transaction that will result in a material change to the ownership, operations, or governance structure of a health care entity. Health care entities that are subject to this obligation include payors, providers, and fully integrated delivery systems.

A "material change" is defined as any change in ownership, operations, or governance for a health care entity, involving a material amount of assets of a health care entity.

Transactions subject to this obligation include transactions that

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occur on or after April 1, 2024 that either involve the sale, transfer, lease, exchange, option, encumbrance, conveyance or other dispensation of a material amount of the assets of a health care entity; or transfer control, responsibility, or governance of a material amount of the assets or operations of the health care entity to one or more entities.

There are several types of transactions that do not require notice, including transactions that are subject to comparable regulatory oversight from the Department of Insurance or Department of Managed Health Care, certain non-profit organization transactions, and agreements or transactions where a county is taking control of an entity.

If, based on the written notice, OHCA determines that the transaction threatens market competition or health care affordability, it will conduct a “cost and market impact review”, as described in further detail below.

OHCA will then publish its findings in a publicly-available report detailing the transaction’s anticipated impact on the health care market. It may also refer its findings to the Attorney General for further review of any OHCA identified anticompetitive behavior discovered during the review process.

The specifics of OHCA review and reporting process will be implemented are pending further rulemaking. But based on the timelines, investigatory powers, and potential costs set forth in the HCQAA, OHCA cost and impact reviews are likely to play a significant role in health care transactions going forward.

Below is an estimated timeline of the OHCA review process:

- At least 90 days before entering into the agreement or transaction, the health care entity must submit written notice of the transaction to OHCA. OHCA will evaluate the notice and determine if the

transaction poses a significant risk to market competition or consumer costs.

- Within 60 days of receiving a notice of material change, OHCA will inform the health care entity whether it will conduct a cost and market impact review.

If it chooses to conduct a review, OHCA will make the notice of material change publicly available, including all information and materials submitted to OHCA for review.

The agreement cannot proceed unless the OHCA has issued a waiver or a final report of the transaction.

- The OHCA conducts a cost and market impact review of the transaction. Factors considered during the review will include:

- Changes in the health care entity’s size and relative market share in a given service or geographic region.
- The health care entity’s prices for services compared to other providers of the same services.
- The potential benefits for consumers arising from the transaction, as proposed by the health care entity.
- Quality, equity, cost, access, or any other factors the OHCA determines to be in the public interest.

During the review, OHCA has broad investigatory authority, including the power to subpoena the health care entity and other relevant market participants for data and documents related to the transaction and to the entity’s general operations.

OHCA may contract with experts or consultants to assist in reviewing the

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- Domestic Violence: Not Guilty, Jury Finding of Factual Innocence (San Fernando)
- \$50 Million Mortgage Fraud: Dismissed, Trial Court (Downtown, LA)
- DUI Case, Client Probation: Dismissed Search and Seizure (Long Beach)
- Numerous Sex Offense Accusations: Dismissed before Court (LA County)
- Several Multi-Kilo Drug Cases: Dismissed due to Violation of Rights (LA County)
- Misdemeanor Vehicular Manslaughter, multiple fatality: Not Guilty Verdict (San Fernando)
- Federal RICO prosecution: Not Guilty verdict on RICO and drug conspiracy charges (Downtown, LA)
- Murder case appeal: Conviction reversed based on ineffective assistance of trial counsel (Downtown, LA)
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proposed transaction, while the health care entity must reimburse the OHCA for all actual, reasonable, and direct costs incurred during the review process.

- Upon conclusion of the review, OHCA will issue a publicly available preliminary report, including its findings of fact.
- Comment period, during which the affected parties and the public may respond in writing to the findings in the preliminary report.
- OHCA publishes a final report, incorporating public comments from the preliminary report.


While OHCA is required to keep confidential all nonpublic information and documents obtained during the review process, it may nonetheless disclose nonpublic information in preliminary and final reports if it believes that doing so is in the public interest, after taking into account any privacy, trade secret, or anticompetitive considerations.<sup>1</sup>

■ **OHCA refers its finding to the Attorney General** for further review of any unfair methods of competition, anticompetitive behavior, or anticompetitive effects discovered during the review process, if any.

Without more concrete guidance from OHCA regarding timelines for

the review and reporting phases, it is difficult to predict exactly how long the process may take.

But given the complexity of the subject matter and the breadth of OHCA's investigatory authority, it could be several months or even a year from the time that a notice of material change is given to the publication of the final report when OHCA decides to perform a cost and market impact review.

This change in California follows recent steps taken in a number of other states to regulate health care transactions, including Oregon, Nevada and Massachusetts. 

<sup>1</sup> SB 184 Bill Text, § 127507.2(c)(1).



**Claire Marblestone** and **Alexis Finkelberg Bortniker** are health care lawyers at Foley and Lardner LLP, while **Joseph T. Simon** serves as a corporate attorney at the firm. They can be reached, respectively, at [cmarblestone@foley.com](mailto:cmarblestone@foley.com), [abornikner@foley.com](mailto:abornikner@foley.com), and [jtsimon@foley.com](mailto:jtsimon@foley.com).



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# Valley Retro



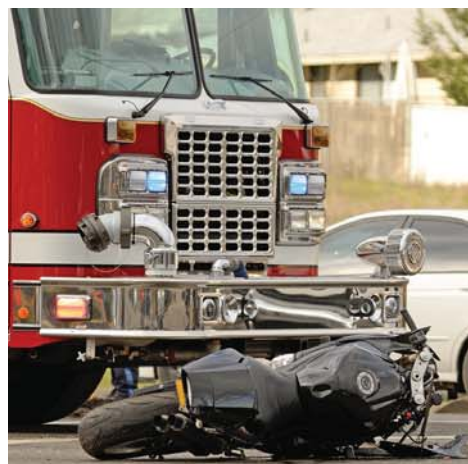
*A house on Sherman Way on Day 2 of the January 1962 snow storm.*

For three days in early January 1962, a freak storm rain, sleet, and snow brought life in Los Angeles County to a virtual standstill, causing road closures and businesses to close.

The first sizeable snowfall in the Los Angeles area in 13 years left as much as three inches of heavy wet snow in such unlikely San Fernando Valley locales as Burbank, Studio City, North Hollywood, Van Nuys, Sherman Oaks, Woodland Hills, Northridge, Calabasas, and Chatsworth.

The snowfall closed Topanga Canyon Blvd. and Sepulveda Blvd. north of Mulholland.

The storm would also be the last time even a trace of snow would be reported as falling in downtown Los Angeles.



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By Nancy A. Reinhardt and Kira S. Masteller

## PROBATE

# Volunteer Settlement Officer Program: Everything You Need to Know

**N**OW THAT THE SETTLEMENT Officer Program has been reintroduced in a digital platform as of December 1, we thought it would be helpful to provide some insight and information on the program—what it is, how it works, how you can help.

The San Fernando Valley Bar Association is grateful to the Court for the opportunity to continue to spearhead the program. It is an honor and a privilege.

A special thanks to Judges Penny, Wada, and Rosenbloom for their guidance and desire to work together to reintroduce the program which was suspended with the pandemic. We also want to thank Anaruth Gonzalez, Deirdre Robertson, Jose Mendez, Julia Vitiello and the rest of the Court staff who were instrumental and supportive.

### What is the Probate Volunteer Settlement Officer Program?

The program is an all-volunteer program. Most of the volunteers are experienced probate attorneys.

We are also fortunate to have several retired judicial officers involved with our program. Our volunteers generously

donate their time and share their expertise and experiences at least once per quarter (sometimes more) to act as a settlement officer for a pending disputed probate/trust/guardianship or conservatorship case.

Certain cases are referred to the Settlement Program by the judge in an attempt to have the parties try to settle the case, in whole or in part, as opposed to proceeding to trial. The program has had tremendous success since its inception and, in fact, a lot of cases settle within the prescribed time frame.

Each Settlement Conference is approximately 3.5 hours. There is no cost to the parties to participate in the program. If a Settlement Conference requires more than the allotted time which is currently from 8:30 a.m. to noon on the scheduled date, the Settlement Officer may choose to spend more time with the parties and counsel on the assigned day, or to provide an additional date/time to continue.

That additional date and time may be at no charge to the parties and counsel although the volunteer may work out an agreement whereby they are paid for the additional efforts.

A well-prepared volunteer will contact parties in advance of their conference date to receive briefs and discuss what steps have been taken to date (i.e., any attempts to settle between the parties on their own) in order to be prepared to make the most of the time provided. Parties and counsel are encouraged to be mindful that the volunteers have no access to court files..

The members of the Committee that organize and facilitate the program are all long-time volunteers, most of whom have been serving since the program was active in Van Nuys originally. This committee then continued the program when the probate caseload was almost entirely consolidated to the Stanley Mosk courthouse.

The committee has a Court liaison (a probate judge) and a technology liaison to assist in facilitating the program at the Court.

The SFVBA generously facilitates the volunteer calendar, the training, the necessary agreements needed for each settlement conference and collects attorney applications for the committee to review. There is one member of the Los Angeles County Bar Association



Attorney **Nancy A. Reinhardt** focuses on probate, taxation, and business and corporate law issues from her office in Encino. She can be reached at [nancy@reinhardtllaw.com](mailto:nancy@reinhardtllaw.com). **Kira S. Masteller** is a trust and estate planning attorney with the firm of Lewitt Hackman in Encino. She can be reached at [KMasteller@lewithackman.com](mailto:KMasteller@lewithackman.com).

who currently serves on the committee as well.

### **Does the Program Help the Parties and the Court?**

When a case is settled via this program, the parties have saved time and money. They have also not endured the emotional challenges of protracted litigation and often feel they have had “their day in Court” which may have been more important than a monetary award. The Court’s calendar and workload is lightened. Even if an entire case is not settled, having some of the issues settle makes a significant difference in reducing the necessity of the Court’s involvement in the matter.

### **Does the Program Help the Volunteer?**

Attorney volunteers get the opportunity to share knowledge and experience in a manner that positively affects the lives of others and reduces the Court’s load.

At the same time, attorney volunteers fine tune their own advocacy skills, settlement agreement writing skills, creative and critical thinking skills and have an opportunity to meet other Attorneys and interact with the probate judicial officers.

The volunteers benefit at a personal level, and the Court system and the parties also benefit.

Truly a win-win situation for all. There is a positive connection among this group of professionals who value providing legal access and resources to everyone. Settlement officers receive training that is valuable in their own practice gaining unique hands-on experience that will benefit his/her own clients in their next mediation (or possibly volunteer settlement conference).

### **Settlement Officer Required Experience**

An attorney volunteer is generally required to have been in practice at least 5 years in California; be actively practicing in the probate/trust administration/conservatorship/guardianship area; and, have no disciplinary actions pending. It is helpful for a volunteer to have participated

in mediations and settlement conferences on behalf of their clients. Trained Court Appointed Counsel are encouraged and welcome to apply and are generally considered already well qualified.

Each probate settlement volunteer is required to attend a Settlement Officer Training, which provides MCLE credit and valuable information with respect to how to conduct a successful Settlement Conference.

Shadowing opportunities with committee members are available for those who want to observe a seasoned Officer prior to serving on their own. There are historical trainings available to view via the SFVBA along with an annual Zoom or live training. There are prior training handouts to learn from multiple advisors, mediators and Judges. There are Settlement Meeting Tips available online. Members of the Committee and Bar Association staff are available to answer questions, discuss concerns, and provide feedback where appropriate.

### **Post Conference Feedback**

Each volunteer officer has an opportunity to provide feedback regarding their Session to the Probate Settlement Officer Program committee following their conference to give the committee any and all information that will benefit the program in the future. Any concerns regarding the Settlement Officers who conducted the conference should also be shared with the Committee.

### **Conflicts and Confidentiality?**

Prior to your scheduled Settlement Conference each officer should determine if he or she has any conflicts with any of the parties involved in the case assigned to them. If so, that Settlement Officer should ask the second volunteer to step in on the otherwise conflicted matter. If both volunteers have a conflict, the Bar Association will be notified and every effort will be made to locate other settlement officers who might be available to assist the parties and their counsel.

At the beginning of each Settlement (or prior to the conference when receiving briefs) a confidentiality agreement is

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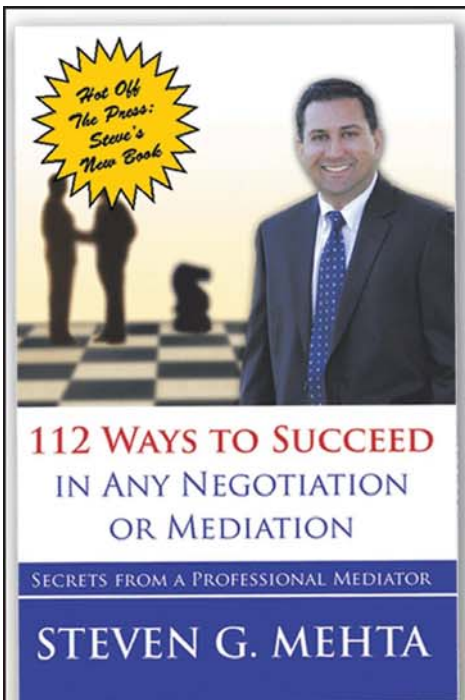
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discussed, provided and signed by the parties and the Settlement Officer.

Similar to a Mediation, the discussions in the Settlement Conference are confidential. The Settlement Officer will not share information with the other side unless given express permission to do so and all parties must keep the discussions which occur during the Settlement Conference confidential.

This allows the parties to be free to openly discuss the case and potential settlement without the concern of their statements being used against them later in the proceeding if a settlement is not reached.

#### **How Often Do the Settlement Conferences Take Place?**

At this time we are facilitating two Case conferences per week via Zoom on Thursday mornings at 8:30 a.m. One Settlement Officer is assigned to each case. Zoom provides breakout rooms and the Settlement Officer guides the parties through the process in separate rooms and can join all participants into one main room if appropriate.

Prior to COVID, while we initially started the program with volunteers available three days per week, it was reduced initially to Tuesday morning and Thursday morning and ultimately just to Thursday morning. There were up to four cases assigned on each day.

Two officers (each officer took two cases per morning) would appear in person in the Court Cafeteria on the ninth floor of the Stanley Mosk Courthouse. Often the Settlement would be read on the record in the Court room so as to provide the Court with the results and bind the parties to their agreement in Court that day.

For now, the Court wants parties to either file a Petition for Approval of Settlement Agreement or just the actual Settlement Agreement so that the court is aware that the matter has been settled.

The Court has discouraged the use of Stipulations and Orders in this regard.

It is our sincere hope that with the reintroduction of the program that we will increase the volume of cases wanting to

take advantage of this program. For right now, volunteers are available on Thursday mornings of each week.

#### **How Does the Volunteer Sign Up?**

A link has been made available to all volunteers whose applications have been approved to sign up with Sign Up Genius. You can schedule months in advance.

If you are unable to serve on the date you chose, you are responsible for finding your replacement. A list of all of the qualified volunteers has been made available to the volunteers. Please ensure that you update the calendar and also notify Bar Association staff.

The link to the sign-up program will be linked to the San Fernando Valley Bar Association's website, [www.sfvba.org](http://www.sfvba.org). There is a drop-down menu for public service which references the settlement program. The calendar can also be found there.

#### **How Does a Party Sign Up?**


Each party signs up for a conference via the LASC website.

The individual who takes responsibility for signing up the matter will provide the case number, case names, parties names, phone numbers and emails for both sides. The parties are required to be referred to the program by the judge.

Our judges will provide the parties with information on how to sign up and will set a return date with ample time for the parties to participate in the settlement conference.

#### **Conclusion**

The volunteer Settlement Conference program is a critical tool to help our overburdened probate courts manage their calendars.

Maintaining a sufficient pool of qualified volunteers requires the participation from as many experienced probate attorneys as possible and settlement conferences conducted via Zoom now makes participation from locations tens or hundreds of miles away from the Stanley Mosk Courthouse possible and convenient. Check out the program and volunteer soon. 



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By Kamron Sanders

# Legal Research Databases: A Definitive Guide

**N**O MATTER HOW SKILLED AN attorney may be, conducting legal research can be a challenge.

As the law evolves across jurisdictions, it can be difficult to keep up with all the changes and developments without the right tools, like legal research databases.

Legal research databases are an essential aspect of a lawyer's toolkit. Paid databases used to be the only option, but now, there are a number of free tools available for law firms of any size.

## What Is Legal Research?

Legal research is the process of uncovering and understanding legal precedents, laws, regulations, and other legal authorities that apply in a case and guide a lawyer's course of action.

The process often includes case law research, which is used to identify and

interpret the most relevant cases related to the topic. It may also involve research into a judge's past rulings or opposing counsel's track record.

Legal research never ends. It's an ongoing process throughout the legal matter.

## What Are Legal Research Databases?

Legal research databases are collections of legal forms, older state, and federal cases, and certain state, and federal administrative materials.

They also have secondary sources like online versions of journal articles, legal newspapers, and treatises.

These databases may be paid or free, but the paid options are often more extensive and easier to use.

They have sophisticated search engines with tools like field or segment restrictions, data restrictions, and Boolean connectors.

Some also offer hyperlinks to related materials to expand the scope of the research.

## How to Conduct and Plan Legal Research

A legal research plan is a strategy for finding information on a specific legal topic. The development of a systematic approach is often more efficient and accurate.

The research plan doesn't need to be written, but it may be helpful for new lawyers or lawyers in a new practice area.

Experienced lawyers typically know the area of law and the available resources well, so they can plan their research process more quickly.

## Breaking It Down

The legal research process is generally broken down into three elements:

- Understanding the questions and details of the legal issue
- Finding relevant laws and information to support the argument
- Ensuring that the information is still relevant

The steps to follow:

### ■ Gather Critical Information

The first step to legal research is collecting key details like the who, what, when, where, and how, which lays the foundation for a more focused and streamlined legal research process.

This information then pinpoints the issue and helps in crafting an outline a framework to narrow the



**Kamron Sanders** is the Marketing Specialist at PracticePanther with responsibilities for creating content across multiple channels including social media, articles, videos, and more. She can be reached at [kamron@practicepanther.com](mailto:kamron@practicepanther.com).

potential search terms and identify the jurisdiction to focus your research.

#### ■ Learn and Understand the Precedent

While researching, pay attention to the geographical location of the legal issue.

Is the precedent controlling in your jurisdiction or is it a persuasive precedent that hasn't been adopted?

#### ■ Determine Legal Sources

Primary sources include, treaties, federal and state constitutions, regulations, annotations, or case law, while secondary sources evaluate law review articles, practice guides, or legal treatise

Start with secondary sources to gain background on your issue, then you can work toward primary resources to see which ones are applicable.

Attention should be paid to the primary sources cited in law reviews, journals, and case law documents, which can provide research guidance.

#### ■ Use a Citator

Citators ensure that 'good' is being used law by verifying a case's authority with a cataloged list of cases, statutes, and legal sources. Then it can be checked whether it hasn't been overruled, questioned, or made irrelevant.

Major legal databases have citator tools that flag negative history on cases to help make sure that the information is credible.

#### ■ Report Results

Compiling legal research in a memorandum within legal case management software is a great way to keep specific research for a client organized and easily accessible.

Keeping this information in a centralized location could help identify any gaps in information that could prove problematic later in the case.

Generally, legal memorandums:

- State the facts of the case;
- Identify the issue;
- Apply 'good' law;
- Predict counterpoints; and,
- Assess the outcome of the case

### Finding the Best Legal Research Databases

Here are some of the best paid and free databases to sort through information and develop a more efficient legal research process.

■ **LexisNexis:** One of the biggest names in legal research, LexisNexis is a comprehensive research platform with a wealth of business information and intelligence. This service requires a subscription, but there are tiered plans to suit individual needs.

■ **Westlaw:** Westlaw is another major player in legal research. Also a paid subscription service with tiered options, Westlaw is part of the larger Thomson Reuters legal universe. Along with a research database, Westlaw offers additional products for legal research and know-how.


■ **Courtlistener:** Sponsored by the Non-Profit Free Law Project, CourtListener is a legal research website that covers millions of legal opinions from federal and state courts. The database can be searched by case name, topic, citation, and more. CourtListener is updated daily.

■ **Caselaw Access Project:** The Caselaw Access Project (CAP) offers free access to all official, book-published U.S. case law.

The project is part of an effort to make all published U.S. court decisions freely available for publishing online. The earliest case is from 1658, all digitized from the Harvard Law Library collection.

■ **FindLaw:** The Findlaw for Legal Professionals division offers free online legal content, including case law from state and federal courts, legal news, statutes, and case summaries. It also has a searchable database of U.S. Supreme Court decisions dating back to 1760, which can be searched by name, case title, full text, citation, or docket number.

■ **PACER:** Officially created by the federal judiciary, PACER is a public access site allowing access to docket information from federal appellate, bankruptcy, and district courts. Payment is available for the service per page or per document for downloads.

Smart legal research is thorough, efficient, and accurate. Whether you use paid or free legal research databases, they're a key component of a successful legal matter. 

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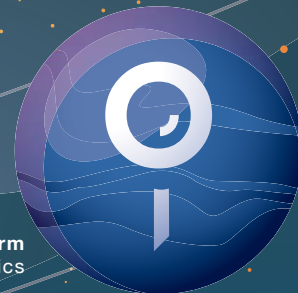
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