Los Angeles lawyers Jean M. Boylan and Barbara R. Gadbois discuss public works contracting procedures and how they vary when local or state agencies declare emergencies.

Page 16
DO YOU KNOW WHAT TO DO?

YOUR YEARLY BUILDING OPERATING EXPENSE BILL FROM YOUR LANDLORD WILL BE ON YOUR DESK SOON.

You could:
1. Pay it without question;
2. Spend hours scrutinizing the bill for appropriateness; or
3. Have Mr. Tabor do the work for you...for free.

Mr. Tabor has saved companies like yours over $5 Million Dollars analyzing building operating expense bills. Mr. Tabor will personally analyze operating expense bills for the first two dozen tenants that contact him, for free.

Landlords know Jeff Tabor as the guy who saves their tenants more money challenging building operating expense bills than anyone in the industry.

Landlord brokers know Jeff Tabor as the guy who gets his clients the best lease terms, concessions, and protection from operating expense bills.

WHAT DO JEFF TABOR’S CLIENTS HAVE TO SAY?

"Corporate Realty Advisors saves me thousands of dollars every year by reviewing and challenging my landlord’s proposed building operating expenses! You are simply the best firm out there today representing law firms!"

Colleen Jilio-Ryan, President
Jilio-Ryan Court Reporters

Call Jeff Tabor For The Best Representation In The Industry!

213-943-1353

"Be Represented...Not Brokered!"

AttorneysLeaseSpecialist.com
DOWNTOWN LOS ANGELES • CENTURY CITY • ORANGE COUNTY
When you have a lot to lose, we have a lot to offer

Divorce • Support • Premarital Agreements
Interstate & International Family Law
Litigation • Mediation

walzermelcher.com
5941 Variel Avenue, Woodland Hills, CA 91367
1820 14th Street, Santa Monica, CA 90404
(818) 591-3700
The Firm for High Stakes Business Litigation and Trials

Over $925 million in verdicts and judgments for our plaintiff clients, and others successfully defended.

We’re different. Lean. Efficient. Smart. We win and win big.

With over 300 jury trials to verdict, we know our way around a courtroom. And we square off against some of the nation’s biggest firms.

We thrive on the tough cases: the ones where your company, fortune or liberty are on the line. Bring us your biggest problem to solve. We’ll get it done.
California’s Public Contract Code lays out statutory guidance allowing award of public works contracts that can bypass standard competitive bidding rules in case of an emergency.
Paying Highest Referral Fees (Per State Bar Rules)
Representing executive, technical, and administrative employees statewide with integrity, passion and expertise!
Honored to receive regular employment referrals from over 100 of California’s finest attorneys
Super Lawyers 2012

Stephen Danz & Associates | 877.789.9707
Main office located in Los Angeles and nearby offices in Pasadena, Orange County, Inland Empire & San Diego
In last month’s “From the Chair” column, I wrote of the risk to attorneys in taking on clients who may be convicted in the court of public opinion, as illustrated by the collateral damage (e.g., negative press, loss of other clients) that some of film producer Harvey’s Weinstein’s former attorneys reportedly suffered.

Clients certainly are entitled to choose their lawyers based on their own criteria. But I find troubling the apparent mindset of much of the public—and especially the media—that attorneys should be punished for representing unpopular clients. After all, even unpopular people have a right to (and are perhaps most in need of) competent representation, and this mindset seems to threaten both that right and the independence of lawyers in doing their jobs.

I am even more troubled by recent stories about a different threat to the independence of lawyers trying to do their jobs. The lawyers at issue are judges, and those who have made unpopular rulings have come under heavy pressure in recent days. Threats to judicial independence are nothing new, of course. Many will remember the story of “the switch in time that saved nine.” (For those who don’t: In 1937, after much New Deal legislation was struck down by the U.S. Supreme Court on 5-4 decisions, President Franklin Roosevelt pushed legislation to pack the Court with six new justices, and it was Associate Justice Owen J. Roberts’ sudden “switch” to supporting the New Deal that averted this court-packing plan.) However, as Michael Wines reported in a recent article for The New York Times, “political attempts to reshape or constrain state courts have risen sharply in the last 10 years…propelled by polarization and a fading of the civics-book notion of governmental checks and balances.”

The latest example is the response of Republican legislators in Pennsylvania to the decision of that state’s supreme court to strike down the state’s congressional district map as a Republican-drawn gerrymander. This response included threats to flout a court order to turn over map-drawing data and to file ethics complaints against, and even impeach, Democratic justices. As reported by Wines, “impeachment—or at least, impeachment threats and attempts—have become a common tool to pressure courts in recent years.”

While efforts to punish judges for disfavored rulings appear to skew Republican, there is at least one recent example in which the political left has adopted this approach. Aaron Persky, a superior court judge in Santa Clara County, is facing a major recall effort based on his sentencing of Brock Turner, the former Stanford University student convicted of sexual assault in 2016. Some victims’ rights and women’s rights activists say the sentence was far too lenient. Others counter that the sentence was recommended by the probation department (not a sentence Judge Persky came up with himself), that Turner was also sentenced to lifelong registration as a sex offender, and that the California Commission on Judicial Performance cleared Persky of misconduct.

The point here is not to adopt a position on the sentence itself. It is to say that it is bad policy for liberals and conservatives alike to try to remove a judge just because you dislike one of his or her rulings. We must be vigilant in ensuring that judges remain independent and do not become tools either of another branch of government or of any political or ideological movement.

John Keith is the 2017-18 chair of the Los Angeles Lawyer Editorial Board. He practices business litigation with the law firm of Fenigstein & Kaufman in Century City.
LAWYERS’ MUTUAL INSURANCE COMPANY

Industry Leading Member Benefits

New Simple & Quick Application
FREE $100,000 Cyber Coverage with policy
ONLINE MCLE AVAILABLE ON MOBILE APP
Free One-On-One Loss Prevention Hotline
Easy Renewal Process
Specialty Rates for ADR, Appellate, Criminal, Immigration and Insurance Defense Practice
Preferred Policyholder Discounts
Longevity Credits
Dividends*
Even more benefits at LMIC.com

LMIC has set exceptional standards for the industry for stability, customer service, continuing education and performance... standards by which other legal malpractice providers in California must be measured.

We are proud of those policyholders who see the value of membership in LMIC.

Visit us at: www.lmic.com
or call (800) 252-2045

LAWYERS’ MUTUAL INSURANCE COMPANY
3110 West Empire Avenue, Burbank, CA 91504

*A.M. Best “Excellent”

* Dividends are paid at the sole discretion of the Company’s Board of Directors and past dividends do not guarantee the payment or amount of future dividends.
Past Challenges, New Initiatives Fuel a Resurgent LACBA

SETTLING IN as LACBA's new executive director, I was reminded of my first week as the new executive director of the California Judges Association (CJA) 14 years ago. For years, the courts paid the professional dues of the judges and commissioners, but, shortly after I was hired, it was announced that professional dues would no longer be covered by the courts. The prevailing sense was that judges would never voluntarily pay dues and that CJA was done. That was wrong. At the end of that first self-funding year, more than 93 percent of the members had written checks to support the association when we needed it most. That collective focus and compelling need to support and defend what is important, professionally and personally, had an enormous impact and made me proud of my association and, more importantly, it made me proud of my members.

That delicate and dangerous moment says a lot about an association and those who choose to belong, choose to stay, and choose to make it stronger than ever before. It's no secret that LACBA has had a rough couple of years. Some say the association is not what it was, and they are right...it's better. Better because of the honesty, the adversity, the challenges, and because of the resurgence that I see everywhere I turn.

Since I've been on board, I have had the opportunity to see firsthand the energy and excitement of our new and young lawyers, the barristers. I've sat in wise counsel with members of LACBA's Senior Lawyers Section and Council of Sections, listening and learning about the leadership that built the county bar and that has sustained it for 140 years.

I recently spent a morning at LACBA's Domestic Violence Legal Services Project in the Stanley Mosk Courthouse downtown and left inspired by the good work and meaningful change disbursed every day. I am also committed to visiting LACBA's Veterans Legal Services, AIDS Legal Services, and Immigration Legal Assistance projects. The four projects, and support for them, are a vital part of our dynamic collective focus and compelling need to support and defend what is important, professionally and personally, had an enormous impact and made me proud of my association and, more importantly, it made me proud of my members.

Looking at the data, I keep wondering what we can do to bring them back. Both surveys ask important questions that will help drive the internal and external discussions towards a better county bar and a more exhaustive survey that will serve as the groundwork for serious, long-term strategic and aspirational planning. The initial responses have been remarkable and full of meaningful comments that will move us forward.

**Weekly Membership Innovation Discussions.** Your entire LACBA staff is an incubator of innovative ideas for engaging the new lawyer as well as strategies and exciting initiatives for the legacy member. All members need to feel engaged and valued. Our job is to help make these connections and opportunities easy to access, easy to use, and valuable to your practice. We have begun embedding video into some electronic communications aimed at delivering content in compelling and meaningful ways. We are launching a four-program podcast highlighting Barrister members, sharing their advice and tips for navigating the first three years after law school—all towards a member experience as personal, inclusive, and diverse as our membership.

**LACBA Beyond DTLA.** The quality and variety of CLE programming delivered by the sections, usually at LACBA's offices downtown, is well known and highly valued, but we are the county bar. This programming should be available in every corner of the county where members have a need and an interest—in tandem with our allied bar partners where we can and independently where we must. In addition, we are moving forward with webcasting and recording selected programs that members can access on their devices at their convenience.

**Move to Mobile.** We are embarking on the move to mobile and the development of the LACBA app. Your section updates, programming, events, dues, social networking, and all that you expect from LACBA will be easily available and personalized by you, for you.

**Dues Payment Ease.** Being a member ought to be easy, and paying your dues even easier. To that end, we are moving towards monthly debit options from your checking account or credit card.

**2018 Marks Our 140th Year.** In February, in observance of Black History Month, we began featuring African-American members and staff in the Daily eBriefs. This recognition will continue through the other heritage months as we celebrate the diversity of the bar and efforts to include all underrepresented segments of the Los Angeles legal community. Throughout the months ahead and reflected in the important signature LACBA events coming this summer and fall, we will celebrate the leaders who built this association and highlight the trend and trendsetters shaping the future of the bar.

I have dedicated my professional life to the power of associations and the rule of law. This opportunity as your executive director is both humbling and exhilarating and fulfills a lifelong dream to mesh these two passions. Thank you to the many who have offered kind words of support, advice, and encouragement. We are all LACBA, and I won’t let you down.

Stan Bissey is the executive director of the Los Angeles County Bar Association.
November 17, 2014

Jack Trimarco & Associates
Polygraph / Investigations, Inc.
9454 Wilshire Blvd., 6th Floor
Beverly Hills, CA 90212

Dear Mr. Trimarco:

In the winter of 2010, an environmental disaster occurred off the west coast of the island of Oahu in the State of Hawaii. Heavy rainfall caused millions of gallons of contaminated water—including toxic soil, trash and human medical waste—to pour from the Waimanalo Gulch Sanitary Landfill into the ocean waters. Federal officials launched an investigation into the landfill’s operator, Waste Management of Hawaii (“WMH”). The U.S. Attorney’s Office alleged there was a conspiracy between members of the WMH and its environmental consulting firm to submit false information to regulators about the adequacy of the landfill’s storm water management system.

I represented an employee of the environmental consulting firm hired by WMH to perform construction quality assurance. During the investigation, all evidence pointed to the fact that my client was innocent of any wrongdoing. Nevertheless, the Assistant U.S. Attorney insisted that my client pass a polygraph, or else risk being indicted as a participant in the criminal conspiracy.

In 2012, you conducted a polygraph examination of my client, unequivocally establishing that no deception was indicated. The Assistant U.S. Attorney then demanded that my client pass a polygraph examination administered by FBI agents in Honolulu. The FBI alleged my client failed their polygraph examination, but you responded with a thorough and compelling critique demonstrating how the FBI’s polygraph examination was deficient and should be disregarded.

Last year, I was notified by the U.S. Attorney’s Office of the District of Hawaii that their office would not seek an indictment of my client, nor would any charges against him be pursued. I believe your carefully and competently constructed polygraph examination and critique of the FBI’s polygraph results played a central role in our advocacy that prosecution should be declined in my client’s case.

Sincerely,

[Signature]

Brook Hart
A Law Corporation

Law Offices of Brook Hart

Jack Trimarco & Associates
310.247.2637
www.jacktrimarco.com • jack@jacktrimarco.com
CA PI. #20970
9454 Wilshire Blvd., 6th Floor, Beverly Hills, CA 90212
Adam Siegler Colonel (Ret.), Judge Advocate, U.S. Army Reserve

What makes you the happiest? Helping other people.

As of counsel at Greenberg Traurig, an international law firm with more than 2,000 lawyers, what do you like about your job? What I love about my job is my colleagues and coworkers.

One of your practice areas is unmanned aircraft systems (drones) law. What should the average Joe understand about privacy? Drones can have an effect on visual privacy, but the erosion of privacy through voluntary disclosure of information on the Internet is a much greater threat.

You went to UCLA, with a double major in political science and history. What lesson has the United States failed to learn? We have failed, each time, to learn the lesson of the last war early enough to prevent the next one.

Later, you attended Loyola School of Law. Why did you want to become a lawyer? I like to write, I like to speak, and I wanted to make a difference with the things I do.

What is your best job? I am very happy at Greenberg Traurig.

What was your worst job? I’ve never had a bad job because every job means something to me and means something to the people who are asking me to do it.

Were you frightened the first time you stood in front of a Judge? I remember being excited.

You’ve been a featured guest on Champions of Justice. What is our biggest obstacle to justice? First, the failure to enforce the rule of law evenhandedly, and, second, the failure to provide counsel for every person who has a legal problem.

You graduated the U.S. Army War College. What is that? That is the Army’s highest educational level with a design to teach senior officers to become strategic leaders on a national level. It’s an absolute privilege to learn in the same place as General Patton and General Eisenhower.

You were in the Army Reserve during 9/11. What changed? The immediacy of deployment.

You wrote that for Reserve JAGs deployments can be expensive. How? If you have your own practice or you’re a partner in a small firm, you can suffer a catastrophic financial loss. You cannot maintain the continuity of your practice while you’re on the Army payroll.

Did that happen to you? Yes, I had a small firm that I had to close when I came off active duty in 2009.

How did you restart your career? Friends introduced me to Greenberg Traurig, and they took a chance on hiring me when everybody else was laying people off during the middle of the recession.

Yet, you accepted a “by name” request to return to active duty, which you could have declined. Why? My duty was to go where and when needed.

“Thank you for your service.” Trite or sincere? I think it’s sincere, and it is deeply meaningful to me.

Is there a different vibe between veterans who were drafted and those who volunteered? There may have been in the initial motivation, but everyone who served took the oath and understood that their lives could be put on the line.

What is better, draftee or volunteer? My preference is for a volunteer force, but I don’t think everyone has to carry a gun. A young person should be in some type of compulsory service for which he or she is not exempt, where wealth and privilege don’t count.

You received the Bronze Star. What happened? The medal is awarded for service or valor in a combat theatre. I provided a useful strategic service in assuring that our detention operations complied with the Geneva Conventions. I have a great respect for those who re-
ceived the Bronze Star for valor.

**How long was that tour?** One year, with 10 months in country.

**Do The Hague and Geneva Conventions and rules of engagement endanger soldiers?** I believe they protect soldiers in the long run.

**What if one side is playing by the rules and the other is not?** We follow the rules because we, as a nation, are committed to upholding the rule of law. When other people know we follow the rule of law, they are more willing to cooperate. Also, we protect soldiers from the deep psychological trauma of abusing other people or allowing other people to be abused.

You were a colonel judge advocate for the Army Reserve. **What is the simplest difference between civil law and military law?** The law of war, which governs when you can begin hostilities and the manner in which you can conduct them.

**Example?** On the military side, you have to engage in hurting people and destroying property. You have to balance the needs of the mission and self-defense against the rights of others, including civilians.

Have you presided over a court martial? On panels, as the legal advisor. The cases involve similar types of offenses you see in the civil criminal process—thefts to assaults.

**Do veterans receive the VA benefits they are promised upon enlisting?** From the number of homeless veterans on the street, it is obvious there is something we’re still not doing right.

**You’ve provided pro bono services to veterans for more than 20 years. Favorite case?** A sergeant bought a car, and the warranty wasn’t honored. I called the dealer and was told it wasn’t their problem. I’ve always said that some people just need suing.

**What happened?** We went all the way to a jury trial. We got compensatory and punitive damages, and attorneys’ fees. We donated the attorneys’ fees.

**Do you think post-traumatic stress syndrome is underdiagnosed?** Many people are affected very strongly in ways that we don’t fully understand and in ways that the affected soldier will deny.

As chair of LACBA’s Armed Forces Committee, **what is your goal?** To help service members with legal matters. We find that the legal matters have an effect on other areas of their lives.

**What is the worst plight of Los Angeles’s veterans?** There are more than 4,800 homeless veterans, mostly concentrated in downtown.

**What do we need to do?** See them as real people.

**Are some service resistant?** Yes. We have to try harder with them.

**What characteristic do you most admire in your wife?** Her unerring sense of integrity and doing what’s right, in addition to being absolutely beautiful.

**What is your hidden talent?** I’m pretty good at working on houses. Masonry, carpentry, plumbing...all of the necessary trades of building a house.

If you were handed $10 million tomorrow, **what would you do with it?** I would talk to my wife about what we should do together. My first impulse, after taking care of our family, is to help others. I give to from eight to 10 charities per month. I feel blessed and fortunate to have the resources to do that.

**What book is on your nightstand?** I just finished a biography on Copernicus.

**Which magazine do you pick up at the doctor’s office?** Scientific American.

**What is your favorite sport as a participant?** Informal game of baseball with friends.

**Where do you go on a three-day weekend?** Santa Barbara.

**Which U.S. president would you most like to take out for a beer?** Abraham Lincoln.

**What would you ask him?** What kept him going in the Civil War, enabling him to abolish slavery and win the war.

**What are the three most deplorable conditions in the world?** People suffering from famine, war, and disease—so wrong and so unnecessary. U.S. veterans who proudly served now living on the street; we need to fix this. Destruction of the environment and the animals who live in it. We are all responsible for our world.

**Who are you two favorite world leaders?** Churchill and Gandhi.

**What is the one word you would like on your tombstone?** Peace.
A client, Alice, calls to tell you that after hearing so much about cryptocurrencies like Bitcoin, she opened a crypto-trading account. She bought and sold various cryptocurrencies in 2017 but did not report or pay taxes on her crypto gains. How is the government going to know what she bought and sold—it’s all anonymous, right? (It is not.) Alice only wants to know if she made a mistake by not declaring and paying taxes on her crypto gains in 2017.

Although state laws governing crypto are a patchwork, the federal government has cautiously provided some initial direction. The clearest guidance on federal crypto taxation came in 2014, with IRS Notice 2014-21.1 Notice 2014-21 also happens to be the most recent IRS statement on the subject. It should be the starting point for anyone seeking to understand how cryptocurrency is treated under federal tax laws.

Notice 2014-21 explains that the federal government considers “virtual currencies” (i.e., cryptocurrencies like bitcoin) to be property, not currency. The notice states that taxable gains and losses are incurred “upon an exchange of virtual currency for other property.” Thus, taxable events are not limited to swaps of crypto for fiat currencies (like dollars or euros); a taxable event occurs each time one trades crypto, whether for fiat currency (like U.S. dollars) or another type of crypto.

For example, fictional Alice bought $1,000 worth of bitcoin on January 1, 2017, which appreciated in value, and, on July 1, 2017, was worth $2,000. Alice traded half of her bitcoin ($1,000 worth) for litecoin, another kind of crypto. On February 1, 2018, Alice’s remaining bitcoin was worth $2,000, and her investment of $1,000 worth of bitcoin into litecoin grew to $5,000. Alice liquidated all of her crypto holdings for $7,000 on February 1, 2018. This example contains multiple taxable events.

The first event occurred on July 1, 2017, when Alice traded property (bitcoin) costing her $500 for property worth $1,000 (litecoin). That taxable event resulted in $500 of short-term capital gains. Had Alice held her bitcoin a year before selling or trading, IRS Notice 2014-21 clarifies that they would have been treated as long-term capital gains, which are taxed at lower rates.

The next taxable events occurred when, after seven more months, Alice sold her bitcoin and litecoin for dollars on February 1, 2018. The sale of her remaining bitcoin (which had a cost basis of $500) for $2,000 resulted in taxable gains of $1,500. But because Alice held that bitcoin for 13 months (i.e., more than a year), those gains are taxed as long-term capital gains.

Notice 2014-21 also provides guidance on hard forks, airdrops, and ICOs; using LIFO versus FIFO to calculate basis; and applicability of the “wash-sale rule.” Moreover, employers who pay employees in crypto must treat the payments as salary, not wages. Notice 2014-21 illuminates tax requirements for such employers in greater detail.

To understand and comply with tax laws regarding crypto holdings, one should speak with a tax/crypto lawyer or accountant who can provide more complete advice, including how Notice 2014-21 and other laws apply to more advanced topics (e.g., taxes on “hard forks,” “airdrops,” “ICOs”; using LIFO versus FIFO to calculate basis; and applicability of the “wash-sale rule”). They also can suggest proactive measures taxpayers can take to minimize the likelihood of noncompliance in this brave, new crypto world.


J.D. Rees is an associate at Sheppard, Mullin, Richter & Hampton LLP, a member of the Business Trials Practice Group and the Private Wealth and Fiduciary Litigation Practice, and serves on the Barristers Executive Committee.
“INDIVIDUAL JUSTICE IN INDIVIDUAL CASES. That is the goal of the Los Angeles Superior Court.” So began an article by then-Presiding Judge Lee Smalley Edmon—now Justice Edmon—in the October 2011 issue of Los Angeles Lawyer.1 Justice Edmon then recounted the budget cuts that the court saw on the horizon, which culminated by June 2013 in annual budget reductions of $133 million and the elimination of one-quarter of court staff.

Despite the dismal fiscal outlook in 2011, Justice Edmon remained optimistic about the future: “Fortunately, in anticipation of the inevitable cycles of state court funding, we have long been pursuing lean operating strategies…. As bleak as the new normal may look, we have not abandoned our pursuit of individual justice in individual cases. We continue to find new ways of administering justice—and to preserve the old ways that have served us so well.”2 Now, five years after the end of the budget reductions, Justice Edmon and her successors—Presiding Judges David S. Wesley, Carolyn B. Kuhl, and I, along with Assistant Presiding Judge Kevin C. Brazile—have been able, with a combination of determination and creativity, to fulfill her promise to continue to deliver individual justice in individual cases.

In 2018, the Los Angeles Superior Court looks and operates differently than it did in 2011, or even 2013. June 2013 marked the depths of the state budget cuts, which forced the court to close eight courthouses and 23 courtrooms, in addition to a number of others closed in previous years; restrict some types of litigation to a handful of locations; eliminate court-employed court reporters in the civil courtrooms; and significantly restructure the way civil litigation was handled, moving away from individual calendar courts to specialized settlement courts and trial courts, and dedicated personal injury courts, among other changes. Some of these changes have proven helpful; others raise issues that have yet to be fully addressed.

The past five years proved a tremendous challenge—and an incredible learning experience. Necessity is the mother of invention, and the impact of the Great Recession has taught the court well. While significant challenges remain, the court has accomplished some great things and is on the threshold of more.

The Challenges
In the years since the state funding reductions ended, funding increases have been scarce. In the current fiscal year, the trial courts received no new funding. Yet the range and scale of demands for justice have not let up. In a typical year, judicial officers in the dependency courts watch over 30,000 children in foster care;3 family court operations process more than 90,000 new petitions;4 almost two million jurors are summoned, and 3,000 jury trials are held;5 and judges in criminal courts handle hundreds of thousands of felony and misdemeanor cases,6 while implementing new laws that increase the workload without providing new funding.

Changes in society, culture, and law place increasing demands on this system. In 2011, with passage of AB 109, criminal justice realignment placed significant additional demands on judges to oversee parole and probation. In 2014, Proposition 47, which lowered the criminal penalties for many drug-related crimes, has resulted in fewer felony filings but an offsetting increase in the complexity of the average misdemeanor case.7 Civil judges report that an increase in highly complex employment cases is exacerbating delays in the civil courts. Each year brings a new area of children’s lives under the microscope of the dependency judges, from educational achievement to the administration of psychotropic medication. Wholesale changes in how family law matters are heard demand more resources in family law courts.

What has prevented disaster and is cause for continued optimism for the future of the Los Angeles Superior Court, is the range of creative responses the court has developed to these challenges, combined with the dedication and hard work of judicial officers and staff.

New Business Model
In 2014, Governor Edmund G. Brown Jr. called on the California trial courts to find more “elegant and efficient” ways to do business.8 The Los Angeles Superior Court is meeting that challenge. For example, when lines wrapped around the Metropolitan Courthouse in the heat of the summer of 2013, fraying nerves and trying people’s patience, court leadership recognized that a different approach to handling traffic citations was needed. Since then, the court has moved the majority of its traffic ticket business online, eliminating lines that clogged several courthouses and making it easier for traffic litigants to resolve their tickets.

To help traffic litigants, the court created the first-ever online automated, audio self-help system, which speaks to litigants in six languages, outlining options available for the user’s particular traffic ticket. Traffic litigants who want to come to the courthouse to conduct their traffic matter business can go online to schedule an appointment with a traffic clerk beforehand to save time and money. The traffic courts have gone from having queues that rivaled those at Disneyland to virtually no lines at all.

This online, do-it-yourself model extends to the civil courts, where the Court Reservation System allows attorneys to schedule hearing dates for a wide range of matters, making it easier for them to get the date they need while eliminating the staff time devoted to scheduling. Litigants in the family law courts will soon have help completing documents online through an interface that guides them step-by-step through the preparation process.

The online world does not suit everyone and so the court will continue to provide personal service at the clerk’s windows.
With fewer people in line, clerks have more time to help people with complex issues or who prefer to talk to a person rather than a computer.

Behind the scenes, similar approaches save time and money. By changing the way the court handles bail refunds, makes payments to court-appointed experts, organizes facility support functions, hires new staff, and handles their human resources records—down to changing the way photocopiers are leased—it is possible to “do more with less.”

In the end, while these innovations have blunted the worst of the impacts of underfunding, they are not enough. The staff savings that accumulate through these efforts mean more people are free to attack the backlogs that have grown over the past lean years. But those backlogs continue. More than 1,500 family cases await clerical processing before judgments are finalized.9 More than 1,000 orders for child and spousal support are backlogged,10 denying people the economic support they need and deserve. A backlog of hundreds of child custody orders denies parents the opportunity to care for their children. Clerical backlogs of more than 4,000 civil court orders prevent people in those cases from collecting money they are owed.11

In short, the court is within reach of adequate staffing for the courtrooms, the clerk’s offices, and the various other services provided, but it is not yet there.

Language Access

With more than 140 cultures and as many as 224 languages, Los Angeles County is one of the most diverse areas in the world.12 It is estimated that 55 percent of the county population speaks a language other than English at home.13 Many need to speak a non-English language in the courthouse as well.

The Los Angeles Superior Court provides interpreter services in 89 languages with the assistance of nearly 400 certified or registered interpreters and 200 independently contracted interpreters—in every courtroom outside of the general civil courts.14 The court’s website is multilingual as well. Services are typically available in the five languages for which court users most frequently request assistance: Armenian, Korean, Mandarin Chinese, Spanish, and Vietnamese. The website includes a portal in which parties can schedule an interpreter for a language other than Spanish prior to their court hearing. (Spanish language interpreters are available daily at every courthouse, so there is no need to schedule one in advance.)

At the public counters and in the Self-Help Centers, clerks have access to Audio Remote Interpreting (ARI), which connects customers requiring language assistance with an ARI vendor interpreter by phone to assist with the interaction. JusticeCorps volunteers who assist litigants in the Self-Help Centers speak 15 different languages.15 More than 269 bilingual employees provide language services at the clerk’s offices.16

The Los Angeles Superior Court has been a leader in California in expanding language access services. The remaining challenge—to make court-provided interpreters available in all civil courtrooms—is within reach.

Not Your Grandparent’s Courthouse

A casualty of the recessionary cuts was a decade without desperately needed replacements for the court’s case management systems (CMSs), which provide the information infrastructure of the court. The court had more than two dozen separate systems, several written in archaic programming languages. (Anyone out there still running DOS? When was the last time someone mentioned an application written in COBOL?) Many of these systems were seemingly held together with duct tape and baling wire.

Now, every CMS in every litigation area is being replaced. To date, the court has new CMSs supporting the courtrooms handling dependency, family law, limited civil, probate, and small claims. General civil, criminal, delinquency, and traffic CMSs will come online over the next year. In each of these areas, state-of-the-art courtroom support, combined with the capability for electronic filing, means greater convenience for attorneys and other filers; cost avoidance for the court (less paper, less printing); and greater reliability—with electronic courtrooms, paper files no longer go missing. Electronically filed documents are typically ready for judicial review much sooner than paper pleadings. By extending the electronic courtroom across secure networks, judicial officers can take their work home in a tablet rather than a luggage cart. Electronic files free staff who would otherwise be creating file jackets, filing documents, pulling files, and refile them—which results in more staff resource savings. Electronic files provide simultaneous access to case information to judicial officers, research attorneys, court staff, litigants, attorneys, and the public.

This new technology also allows the court to replace manual processes, integrate its financial data to enhance financial controls, improve records and exhibits management, and provide greater access to case information internally and remotely. In the probate courts, input from the probate bar was critical to building an e-filing system that, after a few minor bumps, had a smooth rollout. Most attorneys appreciate the simplicity and convenience of the new e-filing system. In the family law courts, new filings are being handled electronically, with electronic files constituting the official court record for all documents filed after January 2, 2018—with e-filing coming soon. Seamless communication, information on demand, anywhere—anytime—attorneys and litigants who are ready and able to take advantage of technology will find the Los Angeles Superior Court open for e-business.

Restoring Access to Judicial Officers

Finally, the work of the court is that of its nearly 580 judicial officers. Their embrace of innovation and change, coupled with their dedication to access to justice, has been the foundation on which the improvements have been built. Those improvements extend to finding novel ways to structure courtrooms and to handle cases.

Innovative ways to encourage settlement of civil, family law, and probate matters have been established. These programs help litigants and attorneys find a resolution to their cases saving the time, expense, and inconvenience of going to trial. Expanded settlement conferences help keep limited courtroom time free for those matters that must be litigated.

As with many such programs, courtroom partnerships are key. For instance, in the five personal injury courtrooms in the Stanley Mosk Courthouse, certain cases that have reached the final status conference are set for mandatory settlement conferences (MSCs) staffed by attorneys from the American Board of Trial Advocates, the Association of Southern California Defense Counsel, and the Consumer Attorneys Association of Los Angeles. These organizations provide a settlement team with a plaintiff attorney and a defense attorney. The results are impressive: One-third of the cases on the verge of trial settled at the MSC, while another 46 percent settled either before or after the MSC. Only 21 percent went to verdict.17 Family law settlements are encouraged by a no-cost, voluntary program that provides dispute resolution professionals to family law litigants, a resource generally available only to those with the means to hire a private mediator.

The court’s top priority as it has recovered from the recession has been the restoration of courtroom access that was lost during the state budget cuts. Combining modest funding increases, savings from innovations,
The court believes the governor, and the legislature will recognize it, too. ■

2 Id. at 14.
4 Id. at 29.
5 Id.
6 LASC ANNUAL REPORT, supra note 3.
8 Brown boosts judicial branch funding, but service cutbacks remain likely, DAILY JOURNAL, May 14, 2014.
9 Superior Ct. of Cal., L.A. County staff report.
10 Superior Ct. of Cal., L.A. County, Court Resources, Court Interpreters, About the Language Access Services Division, http://www.lacourt.org (last viewed Mar. 1, 2018).
11 Id.
12 Id.; see also L.A. County Gov’t, https://www.lacounty.gov/residents.
16 Los Angeles Super. Ct. staff report [hereinafter LASC staff report].
17 Id.
18 See Notice to Public, LASC Announces Small Claims Cases to Be Heard in Every Judicial District (Oct. 13, 2017); Notice to Attorneys, LASC Announces Limited Jurisdiction Unlawful Detainer (Eviction) Cases to Be Heard in Every Judicial District (Oct. 13, 2017).
19 LASC staff report, supra note 16.
20 Id.
21 Id.
numerous public and private construction projects are underway in California, with tower cranes becoming part of every downtown skyline. When a natural disaster strikes, many of the repair and rebuilding projects are public works projects, awarded by state and local public agencies, which typically require adherence to competitive bidding rules that can be quite cumbersome. It can take years to prepare design and bidding documents, advertise the project, evaluate bids and bidders, respond to bid protests, and complete the contract award prior to construction commencing. In the event of an emergency or natural disaster, however, California law recognizes the need to award contracts quickly pursuant to the “emergency exception” to the competitive bidding process in order to rebuild a community in an expedited manner.1 Thus, it is important to understand both the standard public works competitive bidding process as well as how the process varies when an emergency is declared by a state or local agency.

The basic rules for public works competitive bidding are set forth in the Public Contract Code.2 While the administrative provisions of the Public Contract Code apply to all “public entities”3 and all “public works contracts” for the erection, construction, alteration, repair or improvement of any public structure, building, road, or other public improvement of any kind,4 each state agency, county, city, school district, or similar entity, is governed by distinct provisions of the Public Contract Code. In fact, much of the underlying document drafting and bid disputes involve determining which code provisions apply to a particular project.

Jean M. Boylan is a clinical professor at Loyola Law School. Barbara R. Gadbois is a senior partner in the Los Angeles office of Gibbs Giden where she handles construction transactions and claims. The authors wish to acknowledge and express gratitude to Melissa Griffin, law clerk, for her research and editorial assistance.
public entity. Also, the California Constitution gives cities (and counties) the power to become charter cities (and counties). If a city’s charter or ordinance concerning emergency contracting conflicts, the Public Contract Code provisions will not apply.

“The purposes of competitive bidding procedures are to guard against favoritism, improvidence, extravagance, fraud, and corruption; to prevent the waste of public funds; to obtain the best economic result for the public; and to stimulate advantageous market place competition.” Moreover, “[c]ompetitive bidding provisions are strictly construed by the courts, and will not be extended beyond their reasonable purpose.” The competitive bidding requirement is based upon established public policy to protect taxpayers from fraud and corruption. The purpose is to guard taxpayers from favoritism and to secure the best work at the lowest price practicable. All bidders should be on equal footing to preserve fairness throughout the bidding process and spend tax dollars effectively.

**Bidding Process**

When initiating a public construction project with a dollar value that exceeds the agency’s threshold for competitive bidding, a government agency is typically required to complete comprehensive plans and specifications prepared by an in-house engineer or outside consultant, then publicly advertise an invitation to bid, and award the contract to the lowest monetary bidder who is qualified to perform the work and whose bid is responsive to the instructions to bidders. The bidding process (excluding design) usually takes approximately three to eight months from the time the public entity advertises the project until the time a contract award is made.

Specifically, when initiating a public works project, the agency will issue bid documents and must advertise the contract for at least the minimum period of time as specified by state statute or local ordinance for the particular agency. The agency’s method of obtaining bids depends on the type of work required and whether enabling legislation exists to permit award of the contract to be based on factors other than the lowest bid price. For example, an invitation for bid (IFB) is typically used for simple, routine services and awarded on the basis of a low bid, while a request for proposal (RFP) is used for complex services in which professional expertise is needed due to different approaches or methods that may be used during performance of the contract.

The contractor is also bound by statutory procedural requirements in submitting a bid to the agency. For example, the Subletting and Subcontracting Fair Practices Act governs contracts for public works. Each bidder is required to list the name, location of the place of business, California contractor license number, and public works contractor registration number of each subcontractor who will perform work in an amount in excess of one-half of 1 percent of the prime contractor’s total bid. Moreover, bids must conform to the instructions provided in the bid documents or, in other words, be responsive. Usually, whether a bid is responsive can be determined from the face of the bid without outside investigation or information. If the bid does not materially conform to the IFB or RFP, it can be rejected as nonresponsive; however, a bid that substantially conforms to the IFB or RFP may be accepted if a minor variance does not affect the amount of the bid or give a bidder an unfair advantage.

It is important to recognize that competitive bidding is not required for architectural, engineering, land surveying, or construction management contracts. Government Code Sections 4525 et seq. specifically govern these design professional service contracts, which set forth selection procedures that are mandatory for state agencies and are discretionary for local agencies. In addition, some public agencies avoid the competitive bidding laws by invoking enabling statutes for particular projects, such as revenue-producing infrastructure projects pursuant to Government Code Sections 5956 et seq., or a judicial exception to competitive bidding when it is undesirable or impossible to award on a low-bid basis. Moreover, if there is an emergency, the competitive bidding procedures may not be required, due to the need to expedite rebuilding and to serve the public interest.

Award of public works contracts are often delayed by protests from unsuccessful bidders, taxpayers, or others with “beneficial interest” or “public interest” standing. There are no uniform rules governing bid protests on California public works—each entity uses its own informal practices or established administrative procedures. A bid protest is usually initiated by a letter from a disappointed bidder to the public agency, alleging that the bid recommended for award is not responsive to the IFB, a bidder is not responsible to perform the work, or that competitive bidding laws have been ignored or circumvented in the bid evaluation process. In the case of a bid that varies from the IFB or RFP, the protesting bidder generally must prove that the variance in the bid proposed for award is material to the bid. This is usually based on a review of the submitted bid documents without the need for further factual investigation and is determined by the awarding agency without the need for a hearing.

An attorney representing the low bidder can anticipate that he or she will need to defend the fact that the lowest monetary bidder submitted a responsive bid in all material terms. An attorney who is consulted by one of the disappointed bidders must investigate to see if the low bidder submitted a responsive bid that complies with the material requirements of the IFB or RFP and determine if a bid protest is in order. In any event, the determination of responsiveness will need to be made. Typically, the “material” terms of a bid are those that could affect price, quantity, quality, or delivery, and those terms that are clearly identified by the IFB. The test of whether a bid fails to materially comply with the bid documents is whether the noncompliance gives the bidder a “substantial economic advantage or benefit” not enjoyed by the other bidders. The bidder’s lack of intent to gain an unfair advantage is irrelevant.

A bid may also be rejected because of a technicality if there is a theoretical possibility that the bidder will otherwise obtain an unfair advantage. Giving the bidder a second chance after bid opening to decide whether (and possibly in what terms) he or she wants the contract is considered an unfair advantage.

Although full compliance with each provision of the IFB is always preferred, an immaterial IFB requirement may be waived without prejudicing consideration of the bid. A “minor irregularity” is the failure to meet an IFB requirement that in no way bears on the bidder’s commitment to perform the contract, either because 1) the requirement is merely procedural; 2) the requirement is substantive but is satisfactorily met, although not in the precise manner contemplated by the IFB; or 3) the requirement not met is one calling for information that relates not to the promise to perform but to independently verifiable facts regarding the bidder’s status. In addition, the failure to meet an IFB requirement may be deemed a minor irregularity if the bid is affected only in a trivial way.

The case of Menefee v. County of Fresno illustrates the application of these rules to bidding on public works projects. In Menefee, Brewer-Kalar was the low bidder on a contract for the construction of water, sewer, and street repairs. Brewer-Kalar’s bid was deemed nonresponsive
because of Brewer-Kalar’s failure to sign the bid proposal sheet. However, Brewer-Kalar’s principals initiated the bid elsewhere on the bid form, and the bid bond was properly signed. The court upheld award of the contract to Brewer-Kalar on the basis that it did not matter where the bid was signed, so long as the appropriate parties signed it. Accordingly, the court concluded that because Brewer-Kalar gained no advantage from the defect, a waiver of this immaterial defect by the public agency should be permitted. The facts of each procurement need to be thoroughly evaluated. It is possible that under different facts, the failure to properly sign a bid bond would be considered material. The key is whether the low bidder could have avoided entering into the contract and gained an unfair advantage by the mistake.

It is important that an attorney who is advising a public agency makes certain that the public agency specifically reserves the right under the contract to “waive discrepancies or errors.” In that event, the public agency will be given a certain amount of discretion to determine whether the error or discrepancy is material on a case-by-case basis. The accepted bidder is not always the lowest bidder in competitively bid public contracts. Public contract statutes require that the bid go to the “lowest responsive bidder.” The responsibility determination allows government agencies to consider the trustworthiness, competence, and capacity of the bidder. Typical factors used by the public agency to evaluate responsibility are financial resources, construction experience, and insurance capacity. A public agency cannot find that one bidder is “more responsible” than another. Once the contract requirements are met, that bidder should be awarded the contract. There is no basis for awarding “relative superiority.”

A contractor who wants to protest the award of a public contract must first pursue all remedies available at the agency level before seeking judicial relief. In other words, the contractor must scrutinize the bid documents or any applicable agency regulations, or a combination of both, that provide for specific procedures to protest award of the contract. Upon final decision from the awarding authority, a contractor may then seek judicial relief. There are various forms of relief that a court might award, including, but not limited to, ordering an injunction to halt the construction or ordering that the entity reconsider the bids.

In the case of an emergency, state and local agencies can bypass standard competitive bidding rules and avoid bid protests. The Public Contract Code prescribes unique statutes for each category of state and local agencies that allow award of public works contracts without complying with public bidding laws when there is an emergency. Various Public Contract Code sections specifically exclude contracts from competitive bidding requirements in the case of an emergency, including, but not limited to: 10340(b)(1) (State agency), 20113 (K-12 school district), 20134(a) (counties), 20168 (cities), 20813 (fire protection districts), 20205.1 (public utility district), 20213 (transit districts), 20567 (irrigation districts), 20586 (water storage districts), 20654 (community college districts), and 22050 (listed public agency actions).

**Emergency Exemption**

According to the administrative provisions of the Public Contract Code, which must be read into each of the agency-specific sections listed above, an emergency is defined as “a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.” This includes natural disasters such as floods, fires, and earthquakes. These types of emergencies are exemptions to the bidding process in order to enable agencies to expedite construction and protect public safety. The goal of the emergency exemption is to allow the governing agency to expedite construction to assist the public with a prompt response to the disaster. The individual or agency responsible for proclaiming an emergency depends on whether the emergency is state or local; however, the governor has the broadest power, which is established in Government Code Sections 8550 et seq., the California Emergency Services Act.

The California Emergency Services Act authorizes the governor, chief executives, and governing bodies of local agencies to proclaim the existence of conditions of disaster or of extreme peril to the safety of persons and property...caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease,...an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat.... While a local emergency may be proclaimed by the governing body of a city or county (e.g., city council or county board of supervisors), the governor has broader powers and can proclaim either a local or state emergency. These acts authorize the undertaking of extraordinary police powers, rescue, and cleanup. They also activate emergency purchasing and contracting procedures. Similarly, but at a local level, the California Disaster Assistance Act authorizes emergency contracting for repair, restoration of replacement of buildings, levees, flood control works, channels, irrigation works, streets, roads, bridges, highways, and other public works damaged or destroyed by a disaster (fire, flood, storm, tidal wave, earthquake, terrorism, epidemic, or other similar public calamity that the governor determines presents a threat to public safety). The emergency exemption to competitive bidding was used in Los Angeles after the 1994 Northridge earthquake. Under the exemption, the Santa Monica Freeway was built on an expedited schedule without standard competitive bidding requirements. The west side of Los Angeles was disconnected from downtown due to the collapse of the Santa Monica Freeway. City officials declared an emergency, dispensed the competitive bidding requirements of the Public Contract Code, and awarded the cost-plus-a-fee contract to a contractor based upon expedited bidding procedures and schedule requirements. The freeway damage was repaired in record time, and the contractor was paid approximately $30 million under the emergency exception. In addition to this project, several other demolition contracts resulting from the earthquake were awarded without competitive bidding. Two of the contracts awarded to a single firm had an estimated cost of $2.2 million.

While the Emergency Services Act and the Disaster Assistance Act primarily focus on what constitutes an “emergency” and who can proclaim an emergency at state and local levels, the Public Contract Code sets forth emergency contracting procedures that vary based on the entity involved. The acts tell us how and when to declare an emergency, but the Public Contract Code outlines what to do to move forward with contracting. For example, under Public Contract Code Section 22050, in case of an emergency, a public agency taking emergency action pursuant to one of 95 separate enabling statutes may, pursuant to a four-fifths vote of its governing body, repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving...
Public Contract Code Section 22050(c)(1) every 14 days. It must terminate the action in accordance with the emergency action in accordance with the need to continue the action. If the governing body meets weekly, it may review the emergency action in accordance with the standard competitive bidding procedures outlined above. In other words, emergency contracts are exempt from the standard advertising and competitive bidding requirements. A public agency, however, cannot escape the procedures of competitive bidding by artificially creating its own emergency.

An emergency can be declared in a county when “repair or replacements are necessary to permit the continued conduct of county operations or services.” When an emergency is declared within a county, the board of supervisors, by majority consent, “may proceed at once to replace or repair any and all structures without adopting the plans, specifications, strain sheets, or working details or, subject to the specified statute, giving notice for bids to let contracts.” Emergencies declared by counties typically relate to overcrowding in structures such as jails, juvenile facilities, or courtrooms.

Public School Standards

Emergency repairs at public schools require different voting standards. According to Public Contract Code Section 20113, “[i]n an emergency when any repairs, alterations, work, or improvement is necessary to any facility of public schools to permit the continuation of existing school classes, or to avoid danger to life or property, the board may, by unanimous vote, with the approval of the county superintendent of schools… make a contract in writing…without advertising for bids.” Furthermore, the same definition of “emergency” applies for public schools and local agencies.

Public Contract Code Section 20314 provides an exemption from obtaining bids for jail facilities when “the sheriff certifies that the inmate capacity of the county jail system is exceeded by more than 20 percent and that the overpopulation is likely to continue and poses a threat to public safety.” Section 20314 also provides exemptions for court and juvenile facilities.

To ensure proper use of taxpayers’ money, some Public Contract Code provisions establish monetary caps and other cost limits for emergency public works contracts. For example, under Section 20314(a), relating to counties, emergency work done wholly or in part by contract must be paid at “the actual cost of the use of machinery and tools and of material, and labor and of workers’ compensation insurance expended by [the contractor] doing the work, plus not more than 15% to cover all profits and administration.” To avoid price gouging by contractors, “no more than the lowest current market prices shall be paid for materials whenever possible.”

When damages caused by an emergency are so catastrophic that local and state agencies need further assistance, the governor can submit a presidential disaster declaration to the president of the United States through the Federal Emergency Management Agency (FEMA). The Stafford Act authorizes FEMA to provide assistance to local and state agencies in such cases. Sections 403 (Essential Assistance), 406 (Repair, Restoration, and Replacement of Damaged Facilities), 407 (Debris Removal), and 421 (Fire Management Services) of The Stafford Act apply to major disaster assistance programs and declarations.

In order to obtain FEMA support, the state must make a request within 30 days of the disaster. The public assistance grant program of FEMA provides grants to state, tribal, territorial, and local governments, and certain types of private nonprofit organizations so that communities can quickly respond to and recover from major disasters or emergencies. Through the program, the state can receive federal assistance of “not less than 75 percent of the eligible cost” for “debris removal, life-saving emergency protective measures, and the repair, replacement, or restoration of disaster-damaged publicly owned facilities, and the facilities of certain private nonprofit organizations.” The state then determines how the remaining 25 percent is paid. Federal support typically includes general resources such as utilizing, lending, or donating federal equipment, supplies, facilities, and personnel. Requests for disaster relief can be made through www.fema.gov.

While FEMA funding requires certain federal-aid contract provisions and procedures, state and local agencies must follow the contracting procedures set forth in the Public Contract Code.

The purpose behind the emergency exemption to competitive bidding is to expedite construction to protect the public in a true emergency or disaster. This is a preliminary checklist for lawyers when handling a public works emergency contract:

- Confirm that the public agency has...
declared an emergency in accordance with the law and its procedures by requesting a copy from the contracting officer, reviewing governing body meeting minutes or, if necessary, through a Public Records Act request. If an emergency is declared, lawyers need to ensure the declaration is made in accordance with Public Contract Code Section 1102 and other emergency exemption statutes applicable to the public entity.

- Once the emergency is declared and it is legally appropriate, be aware of the timelines for bidding issues. In most cases, due to the emergency, the bidding process will be very quick (one or two weeks versus three or more months under standard competitive bidding), and work can commence upon verbal contract from someone with authority within the applicable agency.

- Ensure that projects are structured so that only true emergency work is awarded without competitive bidding and follow-on work complies with standard competitive bidding requirements.

- Include audit provisions with the right to recoup overpayments in the contracts so that only authorized and allowable costs are paid for and do not exceed monetary caps or reimbursement limits from funding agencies.

- Do not abandon good contracting practices. Even though contracts may be awarded on an expedited basis, awarding bodies should perform due diligence investigations of contractors before award, and ensure that adequate insurance, payment and performance bonds, warranty and correction obligations, and clear payment, withholding, change order and final completion and project closeout requirements are included in the contract. Although competitive bidding procedures will not apply, the overarching policy of preventing waste of public funds still applies.

- Be aware of any changes with the public contracting process. It is vital to stay current with local, state, and federal statutes and regulations regarding emergency procedures, as failure to comply could invalidate the contract, leading to project delays and added costs.

- Review the FEMA application process and qualifying emergencies so local and state agencies can timely seek federal assistance as necessary to offset some of the financial burden of emergency projects. ■

1 PUB. CONT. CODE §22050.
2 The Public Contract Code currently is divided into the following major sections: Purpose and Preliminary Matters (§§1100–1102); Administrative Provisions (§§1101–1102); Contracting by State Agencies (§§11010–11910); Contracting by Local Agencies (§§11010–122109), including Counties (§§12012–120145), Counties of 500,000 or Less Population (§§12015–120150.14), Boards of Supervisors–County Highways (§§120390–120398), Boards of Supervisors–County Bridges or Subways (§§150400–150409), and Alternative Procedures For Public Agencies Adopting Uniform Construction Cost Accounting Procedures (§§122000–122045); Arbitration of Public Works Contract Claims (§§122020–122021); Withheld Contract Funds (§§122300); and Year 2000 Problem (§§122350–122355).
3 The California Public Contract Code broadly defines "public entity" as the state, county, city, city and county, district, public authority, public agency, municipal corporation, or any other political subdivision or public corporation in the state. PUB. CONT. CODE §1100.
4 PUB. CONT. CODE §1101. The Uniform Public Construction Cost Accounting Act defines “public agency” and “public project” differently, and specifically excludes “maintenance work” as defined. PUB. CONT. CODE §120200.
5 CAL. CONST. ART. XI §3(a).
6 PUB. CONT. CODE §1100.7.
7 Harry D. Miller & Marvin B. Starr, 4 CAL. REAL. ESTATE DIGEST 3D PUBLIC WORKS AND CONTRACTS §3 (2002) [hereinafter MILLER & STARR]; see also PUB. CONT. CODE §100.
8 Domar Elec., Inc. v. City of Los Angeles, 9 Cal. 4th 161, 173 (1994).
9 See Miller v. McKinnon 20 Cal. 2d 83, 88 (1942).
11 See PUB. CONT. CODE §100.
12 University of California, California State University, school districts, counties, cities, and special districts have unique dollar thresholds for triggering competitive bidding. See, e.g., PUB. CONT. CODE §20162 for cities.
13 For professional services, such as civil engineering or architecture, the public agency does not have to choose the lowest bidder due to the quality of service that may be required. See e.g., Los Angeles Unified Sch. Dist. v. Great Am. Ins. Co., 78 Cal. Rptr. 3d 99 (2008), review granted and opinion superseded, (Sept. 17, 2008) (emergency procedures as applied to public school project).
14 Bid protests may delay the process by one to three months.
15 E.g., 10 days for cities. PUB. CONT. CODE §20164.
17 PUB. CONT. CODE §54100 et seq.
18 LAB. CODE §725.5.
20 MILLER & STARR, supra note 7.
27 See, e.g., PUB. CONT. CODE §20921.
29 PUB. CONT. CODE §1103.
30 See City of Inglewood-Los Angeles County v. Superior Ct. 7 Cal. 3d 861 (1972).
32 PUB. CONT. CODE §1102.
33 See Paul Jacobs, Earthquake Lifelines of LA, L.A. TIMES (Feb. 16, 1994) at 56.
34 GOVT. CODE §§8550–8668.
35 GOVT. CODE §8558.
36 GOVT. CODE §§8680–92.
37 GOVT. CODE §§8680.3, 8680.4.
38 California’s procedures are similar to other states. For example, in New York, the public contract statutes allow one agency to declare an emergency when the emergency impacts public buildings or public property. N.Y. GEN. MUN. LAW §103(4). In Louisiana, all public bidding is required if the contract exceeds $100,000. However, there is an exception for emergency when an emergency is declared by a public official, competitive bidding laws do not apply. LA. REV. STAT. §38:2212.
39 STATE CONTRACTING MANUAL, supra note 16, at 27.
40 Id. at 44.
41 See id. at 113.
43 PUB. CONT. CODE §20168.
44 Id.
45 STATE CONTRACTING MANUAL, supra note 16, at 27.
46 Marshall v. 119 Cal. App. 4th 1241, 1245. (School district’s discretion to terminate construction contract with a company, and then to award that contract to a second company without public bidding, did not constitute an “emergency.”).
47 PUB. CONT. CODE §20134.
48 PUB. CONT. CODE §20134(a).
49 PUB. CONT. CODE §20134.
50 PUB. CONT. CODE §20113; see also Los Angeles Unified Sch. Dist. v. Great Am. Ins. Co. (2008) 49 Cal. 4th 739 (holding that award of construction contract without competitive bidding was lawful because prior contractor’s sudden default was proper declaration of emergency).
52 See PUB. CONT. CODE §20134(a) relating to counties.
53 PUB. CONT. CODE §20134.
57 PUBLIC ASSISTANCE PROGRAM AND POLICY GUIDE, supra note 55.
59 GOVT. CODE §§6250 et seq.
60 For example, some states such as New Jersey have included limitation on the emergency exemption. This includes limiting the amount of the contract and withholding payment until the service has been provided. N.J. STAT. ANN. §40A:11–6. In Oklahoma, the legislature added a monetary limit that can be spent under the emergency exception. OKLA. STAT. ANN. tit. 61, §130. In California, currently, the only limitation on the emergency exception is that a majority vote by the agency in charge is required before a void of the contract and the governing body must meet regularly to continually confirm by vote that there is a need to continue the emergency action. PUB. CONT. CODE §22050.
2017 ETHICS ROUNDPUP

California lawyers confronted ethical issues involving conflict of interest, work product and attorney-client protections, and malicious prosecution

By JOHN W. AMBERG and JON L. REWINSKI

LAST YEAR, the State Bar of California was radically restructured, and the influence of its 190,000 active members reduced by the legislature and Governor Jerry Brown, with the acquiescence of the California Supreme Court. After 90 years as a unified bar, the State Bar was segregated, effective January 1, 2018, with practice sections spun off into a voluntary association and core regulatory functions of admissions and discipline retained in a shrunken remnant. The new law reduced the board of trustees to 13, including six nonlawyers, and eliminated the election of trustees by lawyers. Now, all trustees will be appointed by the legislature, governor, and supreme court.

The #MeToo movement against sexual harassment in the workplace claimed Judge Alex Kozinski of the Ninth Circuit Court of Appeals, who resigned after 15 former clerks accused him of inappropriate touching and lewd behavior.

The Los Angeles Sheriff’s Department identified a suspect in the 2009 murder of Jeffrey Tidus, a respected litigator and member of LACBA’s Professional Responsibility and Ethics Committee. Richard Wall, also suspected in two other professional hits tied to legal disputes, was traced to Montenegro, which has no extradition treaty with the United States. Wall’s attorney denied any wrongdoing by Wall.

Conflicts of Interest

Last year, several lawyers charged with conflicts of interest escaped disqualification. In Beachcomber Management Crystal Cove, LLC v. Superior Court, nonmanaging members of a limited liability company (Beachcomber) brought a derivative lawsuit on behalf of the company against the managing member and its principal. They successfully moved to disqualify defense counsel Kohut & Kohut on the grounds that in a derivative suit the company is the true plaintiff and the firm had previously represented Beachcomber and obtained its confidential information in substantially related matters.

The Fourth District Court of Appeal issued a writ of mandate to vacate the disqualification order, holding the trial court had failed to determine “whether the insiders possessed or had access to the same confidential information as the attorney who previously represented the company.”

If so, Kohut’s representation of insiders in the derivative suit would not threaten its lawyers’ duty to the company because the insiders already were privy to all of the

John W. Amberg is a partner in the Los Angeles office of Bryan Cave LLP, and Jon L. Rewinski is a partner in the Los Angeles office of Locke Lord LLP. They are former chairs, and Amberg is a current member, of LACBA’s Professional Responsibility and Ethics Committee. Amberg is also a former chair, and Rewinski a former member, of the California State Bar’s Committee on Professional Responsibility and Conduct.
company’s confidential information.7

The Fourth District Court of Appeal reversed another disqualification in Lynn v. George,8 Angelica Lynn and Angel Lynn Realty, Inc. (ALR) sued Steve George and his real estate investment company Real Estate Portfolio Management, LLC (REPM), alleging the parties had orally agreed to form a partnership to purchase and flip properties. The defendants admitted ALR had acted as a broker and property manager but denied any partnership. During negotiations to sell one of the properties, lawyer Kevin Spainhour communicated with Lynn by e-mail and phone, and copied her on his e-mail messages to George. The plaintiffs moved to disqualify Spainhour from representing the defendants in the lawsuit. The trial court found that the lawyer represented REPM and that his legal advice related solely to ALR’s work as REPM’s broker but nevertheless disqualified him, reasoning that he had a “confidential nonclient relationship” with the plaintiffs and a “potential attorney-client relationship” with the alleged partnership.9 The appellate court reversed, holding that since none of the communications to the lawyer disclosed information confidential to the plaintiffs, there was no confidential relationship between them.10 A potential attorney-client relationship was not sufficient to overcome the important right of defendants to their long-standing counsel of choice.11

Ethical screens can insulate lawyers from disqualifying conflicts. Attorney Anthony Valenti was employed by the Porter Scott law firm from March to October 2014, and billed 26 hours on a state court lawsuit brought by the firm on behalf of National Grange of the Order of Patrons of Husbandry (National Grange) against California Guild. He did not work on a second case in federal court between the same parties, National Grange v. California Guild, brought under the Lanham Act.12 After leaving Porter Scott, Valenti joined the Ellis Law Group which began defending California Guild in 2016. When California Guild filed a notice that Valenti would be one of its attorneys of record, National Grange moved to disqualify the entire Ellis law firm. Finding that Valenti was “tainted” with National Grange’s confidential information based on his previous work, the district court nevertheless declined to disqualify the Ellis firm because it had rebutted the presumption of shared confidences by screening Valenti from working on the Lanham Act case. The notice was a clerical error.13

Attorney-Client Privilege

Lawyers who improperly use an adversary’s privileged communications risk disqualification, even if they have a good faith belief that the privilege was waived. Nearly twenty years ago the court in State Compensation Insurance Fund v. WPS, Inc. held that a lawyer who receives documents that appear to be privileged and to have been inadvertently disclosed may review the documents no more than necessary to determine whether they are privileged, must notify the privilege holder the lawyer has documents that appear to be privileged, and must refrain from using the documents until the parties or the court resolves any dispute about their privileged nature.14 This past year, the Fourth District Court of Appeal concluded in McDermott Will & Emory LLP v. Superior Court that the State Fund duties apply not only to privileged documents inadvertently produced by opposing counsel during discovery, but also to privileged documents that the privilege holder inadvertently shares with others.15

Certain family members sued McDermott Will & Emory and partner Jonathan Lurie for legal malpractice allegedly for concurrently representing them and other family members notwithstanding conflicts of interest and for preparing trust documentation that did not satisfactorily address control of the family holding company. Gibson Dunn represented McDermott Will and Lurie. Previously, the family’s patriarch forwarded to family members a privileged e-mail from his personal lawyer. Those family members, in turn, distributed the e-mail to Lurie, other (including adverse) family members and the holding company’s financial advisor. The privileged e-mail was in circulation for about a year when Gibson Dunn used it during depositions over the objection of the patriarch’s lawyer. Gibson Dunn reasonably contended that
the privilege had been waived. The trial court nevertheless concluded that the patriarch’s inadvertent disclosure of the e-mail did not waive the privilege and disqualified Gibson Dunn. The appellate court denied McDermott Will and Lurie’s writ petition, holding that Gibson Dunn’s reasonable belief did not vitiate the lawyers’ State Fund duties. Gibson Dunn presumably had information that could be used advantageously against the patriarch. By using the patriarch’s privileged communication before a court that resolved the dispute over waiver, Gibson Dunn assumed the risk of disqualification.

Longstanding, acrimonious probate litigation was also the context for the First Appellate District’s 2017 decision in Fiduciary Trust International of California v. Klein, in which the court addressed the extent to which a successor trustee controls the privilege as to communications between predecessor trustees and counsel.16 Previously, trustees of the Mark Hughes Family Trust had been removed for failing to exercise reasonable prudence in connection with the trust’s sale of Tower Grove, a 157-acre parcel of previously undeveloped Beverly Hills property. As Mark Hughes’s only child asserted multimillion dollar surcharge claims against the former trustees, the interim successor trustee, Fiduciary Trust International, demanded that the former trustees turn over all trust documents, including communications between the former trustees and their lawyers paid for with trust funds. The probate court ordered the former trustees to turn over some privileged communications but not others.

The First District Court of Appeal affirmed in part and reversed in part. A successor trustee acquires the authority to assert the attorney-client privilege with respect to confidential communications between a predecessor trustee and his or her lawyers involving legal advice on trust administration, but a predecessor trustee retains the authority to assert the privilege with respect to confidential communications with his or her personal lawyers arising from a genuine concern for possible future charges for breach of fiduciary duty when the trustee personally pays for the legal advice.17 The probate court did not hold the predecessor trustees to their burden of proof. They could not establish their privilege claim by simply characterizing a particular communication as relevant to a defense against the beneficiary’s claims. Rather, they needed to focus on the relationship between the predecessor trustees and the lawyers when the communications occurred. And, to preserve a claim of personal privilege, the predecessor trustees were required to take some affirmative steps at the time of the communications to distinguish the communications from trust property. The appellate court therefore remanded the matter for further analysis.

Privileged Communications

A lawyer’s communications with a media consultant may not be privileged, as illustrated in the Second District Court of Appeal’s 2017 decision in Behunin v. Superior Court.18 Nicholas Behunin sued Charles Schwab and his son, Michael, for not funding a real estate development venture. Behunin’s lawyer retained a public relations consultant to create a social media campaign to induce the Schwabs to settle. Behunin and the lawyer created a website, www.chuck-you.com, purporting to link the Schwabs to corruption, human rights violations, and atrocities associated with former Indonesian dictator Mohammad Suharto and his family.

The Schwabs sued Behunin and his lawyer for libel and slander. A discovery referee ordered production of correspondence among Behunin, his lawyer, and the consultant. The appellate court denied Behunin’s writ petition. The trial court did not abuse its discretion in concluding that the lawyer’s communications with the consultant were not reasonably necessary for the accomplishment of the purpose for which the lawyer was consulted and, therefore, not privileged.19 “There may be situations in which an attorney’s use of a public relations consultant to develop a litigation strategy or a plan for maneuvering a lawsuit into an optimal position for settlement would make communications among the attorney, the client, and the consultant reasonably necessary for the accomplishment of the purpose for which the attorney was consulted. But this is not that case.”20 Interestingly, the court declined to analyze whether the lawyer’s communications with the public relations consultant could be protected as attorney work product because Behunin provided no legal argument or authorities to support the application of that doctrine.21

Attorney Work Product

As between a lawyer who creates work product and that lawyer’s law firm, who holds the right to assert or waive the work product privilege? In Tucker Ellis LLP v. Superior Court, the First District Court of Appeal concluded that, under the circumstances of this case, the law firm—as opposed to the lawyer—controlled the privilege.22 Attorney Evan Nelson, who specialized in asbestos defense, sued his former law firm, Tucker Ellis, for negligence, interference with contract and prospective economic advantage, invasion of privacy, and conversion after Tucker Ellis produced in response to a subpoena work product that Nelson had created while Nelson worked at Tucker Ellis. Following the production, Nelson’s work product—correspondence with certain scientific consultants on the causes of mesothelioma—was posted on the Internet, which, Nelson claimed, compromised his ability to retain experts and resulted in the loss of his job. Because Tucker Ellis, as opposed to Nelson, retained the scientific consultants and Nelson created the work in his capacity as a Tucker Ellis employee, the court concluded that Tucker Ellis controlled the attorney work product privilege.23

Practical considerations support this conclusion. When multiple current and former lawyers create the work product, it would be difficult to track them down and resolve disagreements over whether to assert or waive the privilege.24

Sargon Enterprises, Inc. v. Browne George Ross LLP provides important guidance on the effect of an arbitration clause in a retainer agreement on a former client’s legal malpractice claim.25 Unhappy with the results of long-running litigation against the University of Southern California, Sargon filed in court a malpractice claim against its former lawyers, Brown George Ross LLP, notwithstanding a mandatory arbitration clause in their retainer agreement and Sargon’s prior release of malpractice claims. The court granted the law firm’s petition to compel arbitration. The JAMS arbitrator summarily denied Sargon’s malpractice claim because of the release and, on the law firm’s breach of contract counterclaim, awarded the law firm $200,000 in general damages, based primarily on the fees and costs incurred in compelling arbitration of Sargon’s malpractice claim. The superior court confirmed the award. Notwithstanding the limited judicial review generally afforded arbitration awards, the appellate court reversed the portion of the judgment awarding the law firm $200,000 in damages on its counterclaim. “[T]here is nothing to prevent one of the parties to a contractual arbitration provision from resorting initially to an action at law” and, thereby, forcing the other party to compel arbitration.26 A right to compel arbitration is not self-executing.27 Thus, Sargon did not breach the retainer agreement’s arbitration provision by first filing its malpractice action in superior court and the arbitrator’s damage award had the effect of depriving Sargon of a statutory right—namely, the right to test in court the validity and enforcement of the parties’ arbitration clause.
1. On January 1, 2018, the State Bar of California de-
unified, spinning off its trade association activities
from its regulatory functions.
   True.
   False.

2. In a derivative lawsuit, the corporation is the true
plaintiff, which may create a conflict of interest for
former corporate counsel defending the suit.
   True.
   False.

3. If corporate insiders sued in a derivative lawsuit
were privy to the corporation’s confidential information,
corporate counsel may avoid disqualification.
   True.
   False.

4. A lawyer will be disqualified if he or she has a
conflict of interest based on a potential attorney-client
relationship.
   True.
   False.

5. A lawyer who has knowledge of the opposing party’s
confidential information cannot be screened, and his
or her entire law firm will be disqualified.
   True.
   False.

6. Lawyers who use an adversary’s privileged com-
munication may be disqualified, even though they
have a good faith belief that the privilege was waived.
   True.
   False.

7. A lawyer receiving a privileged document that
appears to have been inadvertently disclosed must
notify the privilege holder.
   True.
   False.

8. A lawyer’s duties are different depending on whether
the privileged document was disclosed by the privilege
holder or by opposing counsel in discovery.
   True.
   False.

9. A successor trustee acquires the authority to assert
or waive the attorney-client privilege for communica-
tions between a predecessor trustee and a lawyer for
the trust.
   True.
   False.

10. An attorney’s communications with a media con-
sultant are privileged, whether or not reasonably nec-
   essary to accomplish the purpose for which the attorney
   was consulted.
    True.
    False.

11. If multiple lawyers in a law firm create work product,
    the firm controls the right to waive protection under
    the work product doctrine, not the individual lawyers.
    True.
    False.

12. A right to compel arbitration is not self-executing,
    and a client does not breach a retainer agreement
    with a mandatory arbitration clause by suing the
    lawyers.
    True.
    False.

13. A comparative fault instruction is improper in a
    jury trial for professional negligence.
    True.
    False.

14. Receipt of a motion to withdraw is reasonable
    notice that the lawyer had stopped working for the
    client.
    True.
    False.

15. Probable cause for a claim is established if the
court rules for the plaintiff on the merits, even if the
ruling is later overturned.
   True.
   False.

16. The “interim adverse judgment rule” does not
    apply if the plaintiff prosecuted the claim in bad faith.
    True.
    False.

17. A fair and true report in a public journal about a
    judicial proceeding is privileged.
    True.
    False.

18. The litigation privilege does not protect statements
to persons who lack a substantial interest in the liti-
gation, including the press.
   True.
   False.

19. An attorney’s demand letter may be protected by
    the litigation privilege, but only if its threat to com-
    mence litigation is made in good faith.
    True.
    False.

20. A lawyer’s failure to get an individual client’s sig-
nature on an engagement letter renders the contract
    voidable.
    True.
    False.
In *Yale v. Brown*, the Second District Court of Appeal issued apparently the first published California appellate opinion approving a comparative fault instruction in a legal malpractice action.\(^{28}\) The former client claimed that her trust and estates lawyer improperly transmuted her separate property into community property. Noting that legal malpractice claims are a subset of negligence actions and comparative fault principles apply in all actions for negligence resulting in injury to person or property, the court concluded that the evidence in this case supported a comparative fault instruction. “It is undisputed that [plaintiff] read the granting clauses of the deeds, saw the change from separate property to community property in two of the deeds, and was entirely conversant with the issue...”\(^{29}\)

In an earlier marriage that had ended in divorce, the plaintiff had lost assets because some of her separate property had been transmuted to community property. Based on her existing knowledge and her decision to remain silent, the court of appeal concluded it was appropriate for the jury to evaluate whether the client’s failure to inquire contributed to her situation.\(^{30}\) The jury decreased the plaintiff’s damages by ten percent. Because the plaintiff had dismissed her breach of fiduciary duty claim prior to trial, the court did not have an opportunity to determine the availability of a comparative fault instruction in response to a breach of fiduciary duty claim.

*Flake v. Neumiller & Beardslee* illustrates the importance— for purposes of managing legal malpractice exposure—of taking action so that a client has an objectively reasonable belief that the lawyer-client relationship has ended.\(^{31}\) Code of Civil Procedure Section 340.6 generally requires an action against an attorney to be brought within one year of when a client should reasonably have discovered the wrongful act or omission or within four years of the wrongful act or omission, whichever occurs first. But the limitations period is tolled while “the attorney continues to represent the plaintiff regarding the specific subject matter in which the alleged wrongful act or omission occurred.”\(^{32}\) Unfortunately, “[t]he end of an attorney-client relationship is not always signaled by a bright line...”\(^{33}\) In *Flake*, a group of plaintiffs, including Stanley Flake and attorney Richard Sinclair, lost their underlying case over a real estate investment. Their counsel of record, Neumiller & Beardslee, filed a motion to withdraw on November 25, 2009, as posttrial motions in the underlying case were pending. The motion stated that attorney Sinclair (one of the plaintiffs) would handle posttrial motions and an appeal. The Neumiller firm’s motion to withdraw being unopposed, the trial court granted it on January 7, 2010. Flake filed a malpractice claim against the Neumiller firm on January 6, 2011—that is, more than one year after Flake had received a copy of the motion to withdraw, but less than one year after the motion had been granted. In *Flake*, the Third Appellate District affirmed the trial court’s summary judgment in favor of the Neumiller firm and its attorneys contending that Flake’s malpractice claims were time barred. Although “Flake may have (subjectively) thought otherwise, any objectively reasonable client would have understood on receipt of the motion to withdraw that Neumiller had stopped working on the case.”\(^{34}\) That attorney Sinclair disputed that he had agreed to handle posttrial motions and appeal did not create a triable issue of material fact.

### Malicious Prosecution

In *Parrish v. Latham & Watkins*,\(^ {35}\) the Supreme Court considered whether a bad faith exception should be created for the “interim adverse judgment rule” in malicious prosecution cases. William Parrish and E. Timothy Fitzgibbon were sued by their former employer for misappropriation of trade secrets after they left to start their own business. They moved for summary judgment, arguing their business plan was developed before they joined the company and no trade secrets were misappropriated. In opposition, Latham, representing the former employer, submitted declarations by two experts who opined the plan could not be implemented without using the company’s trade secrets. The superior court denied the motion. At a bench trial, in which the former employees prevailed, the court found that the former employer had pursued the action in “subjective bad faith,” primarily to thwart a competing business, and in “objective bad faith,” because it knew or should have known it lacked sufficient evidence to initiate or continue the lawsuit.\(^ {36}\) The court of appeal affirmed, noting that at trial the experts admitted, contrary to their declarations, that there was no scientific methodology to predict the likelihood of trade secret misuse.\(^ {37}\)

Parrish and Fitzgibbon sued Latham and partner Daniel Scott Schecter for malicious prosecution. The tort has three elements: the underlying case was initiated or maintained without probable cause, was brought with malice, and was terminated in the original defendant’s favor.\(^ {38}\) The existence of probable cause is a question of law to be determined as an objective matter—whether, on the basis of the facts known to the original plaintiff, the filing of the case was legally tenable.\(^ {39}\) In *Wilson v. Parker, Covert & Chidester*,\(^ {40}\) the supreme court adopted the “interim adverse judgment rule,” holding that probable cause is established if the trial court rules on the merits in favor of the underlying plaintiff, unless procured by fraud or perjury, even if the ruling is overturned by a later ruling. In response to the malicious prosecution complaint, Latham filed an anti-SLAPP motion, relying in part on the superior court’s order denying summary judgment, which, it argued, established probable cause. The motion was granted, and the court of appeal affirmed.\(^ {41}\)

On supreme court review, Parrish and Fitzgibbon argued the interim adverse judgment rule should not apply because their former employer brought the suit in bad faith, but a unanimous court declined to create a bad faith exception. It concluded that just because the trial court had found the underlying suit was “objectively specious” did not mean the action completely lacked merit. Reiterating the very low bar for probable cause set in *Zamos v. Stroud*,\(^ {42}\) the court stated that only those actions any reasonable attorney would agree are “totally and completely without merit” may support a malicious prosecution suit.\(^ {43}\) The court also refused appellants’ invitation to create an exception because the interim ruling denying summary judgment was based on “materially false” expert declarations. Fraud and perjury were not before the court, it noted, and a litigant is entitled to rely on favorable inferences in bringing a suit, even if the inferences later prove false.\(^ {44}\)

### Fair Report Privilege

In *Argentieri v. Zuckerberg*,\(^ {45}\) Facebook’s general counsel Colin Stretch escaped potential liability for defamation by invoking the fair report privilege in Civil Code Section 47(d)(1), which provides that a “fair and true report in, or a communication to, a public journal” about a judicial proceeding is privileged. In 2010, Paul Ceglia sued Mark Zuckerberg and Facebook, alleging that he owned 84 percent of the company based on a 2003 “work for hire” contract. The verified complaint was filed by attorney Paul Argentieri. When the contract was exposed as a fabrication, the suit was dismissed, and Zuckerberg and Facebook sued Argentieri and Ceglia’s other lawyers for malicious prosecution. On the same day that the malicious prosecution suit was filed, Stretch sent a gloating e-mail to media outlets stating that the lawyers had knowingly pursued the case based on forged documents and now should be held to account. Although Argentieri was not named in the e-mail, he ensured his notoriety by suing Facebook,
Zuckerberg, and Stretch for defamation. The superior court granted the defendants’ anti-SLAPP motion to the defamation complaint, and the First District Court of Appeal affirmed, although not on the same grounds. The appellate court agreed that the suit was barred by the fair report privilege but, displaying the antipathy many courts have to litigating in the press, rejected an alternative argument based on the litigation privilege. The litigation privilege, the court held, does not protect statements that do not further the object of the lawsuit, or statements made to persons who lack a substantial interest in the litigation, including the press. Because Stretch admitted he sent his e-mail to “set the public record straight,” it was a publication to the general public through the press, and not protected by the litigation privilege.

**Demand letters**

Los Angeles attorney Martin Singer earned a well-deserved reputation for aggressive advocacy on behalf of his celebrity clients and has elevated the demand letter to a fearsome art form. In 2017, however, in *Dickinson v. Cosby*, Singer’s demand letter and press release for his client Bill Cosby plunged them into trouble. In 1982, model Janice Dickinson allegedly was drugged and raped by Cosby but, fearing retaliation, did not report the crime. She told the ghost writer of her 2002 autobiography, but the publisher’s legal department refused to publish the rape allegation without corroboration. In 2014, Dickinson described the alleged assault in a television interview. Identifying himself as Cosby’s attorney, Singer sent a demand letter to media outlets, denouncing the story as a recent fabrication and warning them not to disseminate it under threat of litigation. In a follow-up press release, Singer repeated that Dickinson’s story was a lie.

Singer sued Cosby, alleging that Singer’s demand letter and press release were defamatory and the entertainer had ratified them. Cosby filed an anti-SLAPP motion, arguing that Dickinson could not demonstrate a likelihood of prevailing on her complaint because, inter alia, the demand letter was protected by the litigation privilege, the letter and press release were Singer’s opinions, and Dickinson was a liar. Dickinson denied the demand letter was privileged and argued the statements were provably false assertions of fact, not mere opinions. The superior court granted the anti-SLAPP motion as to the demand letter, finding it was covered by the litigation privilege but concluded there was evidence to support a prima facie case that Cosby had raped her, and, therefore, the press release was false. While the anti-SLAPP motion was pending, Dickinson filed an amended complaint adding Singer as a defendant and accusing him of reckless behavior, but the superior court struck the amended complaint as procedurally impermissible.

The Second District Court of Appeal reversed the dismissal of the amended complaint as to Singer and rejected Cosby’s anti-SLAPP arguments. It acknowledged that an attorney’s demand letter can fall within the litigation privilege, but only if litigation is contemplated in good faith. Even a letter threatening litigation is insufficient to trigger the privilege if it is actually a negotiating tactic to induce settlement. Singer sent his demand letter only to media outlets that had not yet run the story and when many ran the story anyway, Cosby did not sue. Because the demand letter was “a bluff intended to frighten the media outlets into silence,” Dickinson showed a likelihood of prevailing on the litigation privilege defense.

Both the demand letter and the press release contained actionable statements of fact. Contrary to Cosby’s argument that the letter merely expressed Singer’s opinions, the court held that a reasonable fact finder could conclude it stated or implied that Cosby did not rape Dickinson and she was lying when she said he did. As Cosby’s attorney, Singer was speaking for Cosby, and Cosby knew whether he sexually assaulted Dickinson. “Cosby’s agent’s absolute denial is a factual one.” The press release contained similar language. As a result, the suit would proceed against both Cosby and his lawyer.

**Getting paid**

In *Leighton v. Forster*, an attorney unsuccessfully sued to recover payment for her services over several years. Between 2004 and 2007, Sheryl Leighton was a contract attorney for lawyer Robert James in Berkeley and performed legal services for his clients Bob and Rochelle Forster. After James died, Bob asked Leighton to continue doing their legal work in connection with a lawsuit against their business partners. Leighton sent the Forsters an engagement letter in May 2007, but they never signed it. Bob made partial payments to the lawyer, but when he died in May 2008, the suit was still ongoing, and Leighton was owed more than $100,000. Leighton had dealt with Bob only, and Rochelle knew nothing about the suit or legal bills. The lawyer withdrew from the representation in August 2008.

In 2012, Leighton sued Rochelle for nearly $115,000 in unpaid legal services, alleging breach of contract and account stated. The superior court granted Rochelle’s motion for summary judgment, and Leighton appealed. The First District Court of Appeal affirmed, holding that the lawyer’s failure to get the clients’ signatures on the May 2007 engagement letter under Business and Professions Code Section 6148(a) rendered it voidable under Section 6148(c). Leighton could not prove an implied in-fact contract based on prior payments as a contract lawyer, because her legal services after May 2007 were materially different. Her quantum meruit claim was barred by the two-year statute of limitations in Code of Civil Procedure Section 339. Finally, her common count for account stated failed because there was no evidence of an enforceable contract with Rochelle to pay her fees.

**Sharp Practices and Their Consequences**

Engaging in sharp practices can cause trouble as demonstrated in *Diaz v. Professional Management, Inc.* Eleven days before trial in a wrongful termination lawsuit by a tree-trimmer against his employer for failure to accommodate reasonable workplace restrictions, the employer applied ex parte for an order shortening time to hear a motion to compel arbitration pursuant to the grievance and arbitration procedure in the applicable collective bargaining agreement. The trial court denied the application and refused to delay trial to accommodate a hearing on regular notice. The employer’s lawyers submitted a proposed order reflecting inaccurately that the trial court had denied the motion to compel on the merits, which the court signed. The employer then filed a notice of appeal on the last court day before trial was to commence, thereby staying trial.

“[L]oathe to conclude that the court was actually tricked into signing an order it had not intended to issue,” the court reasoned that the employer was stopped from challenging it on appeal under the doctrine of invited error. The court took the unusual step of making a factual finding on appeal that the employer acted in bad faith in connection with the motion to compel arbitration and concluding, as a matter of law, that the employer had waived any right to compel arbitration. The court ordered the employer and its counsel to pay the court of appeal $8,500 in “damages” for having to process a frivolous appeal and instructed the trial court to set a hearing to determine how much the employer and its counsel would have to pay the employee for the reasonable value of his lawyer’s services in
York lawyer admitted plaintiff’s lawyer, Valeria Healy (a New cringe-worthy exchanges” between the District had to address “contentious and unraveled.” Counsel for both sides ex -

ting a deposition “before things completely Thomas Wallerstein of Venable LLP dur -

were also ordered to report the sanctions

preparing for the aborted trial and defend-

the appeal. The employer’s lawyers were also ordered to report the sanctions to the State Bar.

In Loop A1 Labs, Inc. v. Gatti, Magis-

State Bar delivers

beating him up. His client sought sanctions for

on the attack” in her opposition. What is

take a f****** break.” Then things really


Rules of Professional Conduct Revised

On March 30, 2017, the State Bar delivered 70 proposed new and amended rules of professional conduct to the supreme court for its review. The court approved only one, Rule 5-110, which requires prosecutors to disclose to the defense all evidence or information that the prosecutor knows or should know tends to negate the guilt of the accused, mitigate the offense, or mitigate the sentence. The other rules remain under consideration.

Counsel for Justice supports LACBA’s legal services projects:

DOMESTIC VIOLENCE LEGAL SERVICES PROJECT

VETERANS LEGAL SERVICES PROJECT

IMMIGRATION LEGAL ASSISTANCE PROJECT

AIDS LEGAL SERVICES PROJECT
Settlement: $2,000,000 solo vehicle accident case against Los Angeles Unified School District. Largest plaintiff accident case against Caltrans, $10,300,000 in damages. Largest plaintiff verdicts: $12,200,000 in pedestrian, auto, pedestrian, bicycle, and motorcycle accidents.


Global Solutions
P.O. Box 5596, El Dorado Hills, CA 95762, (916) 825-5592, fax (530) 676-1513, e-mail: globalcalcott@att.net. Website: www.yra.com/expert/default.aspx?ref=1600. Contact Russell Darnell, PhD, BSE, MBA, CAI, President/CEO. Degrees include: PhD Engineering Management, Doctorate of Education, MBA, Master’s Psychology, BS Engineering. Accident reconstruction, motorcycle safety, forensic engineering, vehicle fires—cause and origin, motorcycle and off-highway vehicle accidents, safety gear, products testing. Motorcycle accidents, auto, atvs, boats, racing, trailers/towing, heavy equipment, accident reconstruction, product liability, engineering, safety, racetrack design. Sworn deposition testimony 1000+ times. Appearance as an expert witness in 223 jury trials. Qualified since 1974 in State, Federal, and International courts of law.

William Kunzman, PE
1111 Town and Country #34, Orange, CA 92868, (714) 904-2821, e-mail: bill@traffic-engineer.com. Website: www.traffic-engineer.com. Contact William Kunzman, PE. Traffic expert witness since 1979, both defense and plaintiff. Auto, pedestrian, bicycle, and motorcycle accidents. Largest plaintiff verdicts: 1) $12,200,000 in pedestrian accident case against Caltrans, 2) $10,300,000 in case against Los Angeles Unified School District. Largest settlement: $2,000,000 solo vehicle accident case against Caltrans. Best defense verdicts: 1) $0 while defending Caltrans and opposition sought $16,000,000. 2) $0 defending City of Long Beach and opposition sought $15,000,000. Before becoming expert witness, employed by Los Angeles County Road Department, Riverside County Road Department, City of Irvine, and Federal Highway Administration. Knowledge of governmental agency procedures, design, geometrics, signs, traffic controls, maintenance, and pedestrian protection barriers. Hundreds of cases. Undergraduate work—UCLA, graduate work—Yale University.

Carl Sherman, PE, FORENSIC ENGINEER

Accident Analysis/Reconstruction
4X Forensic Engineering Laboratories, Inc.
5262 Oceanus Drive, Huntington Beach, CA 92649, (714) 450-8520, fax (714) 450-8598, e-mail: info@4xforensic.com. Website: www.4xforensic.com. Contact Phil Van Herle. 4X Forensic Engineering Laboratories is a full-service forensic engineering laboratory. We provide expert witness and analytical and testing services in the following areas: fires and explosions; electrical and gas product defect investigations, thermal and fire modeling and laboratory testing; water loss; materials, corrosion, and failure analysis of plumbing products; failure analysis: metallurgy, product testing, and computerized stress analysis; accident reconstruction: automotive, trucks, construction equipment, and premises liability. See display ad on page 39.

97% of clients would use TASA again!

- Galley Murray Communications

Behind thousands of successful cases, you’ll find The TASA Group.

For more than 60 years, we have delivered:
- Exceptional personal service
- A proprietary database of experts screened by TASA
- No charge until an expert is designated or engaged

When you want the shortest route to the largest range of experts, think The TASA Group.

The TASA Group
The Best Source For Experts Worldwide
800-523-2319, experts@tasanet.com
TASAnet.com

Accounting
Advocates/Experts @ MCS Associates
18881 Von Karman, Suite 1175, Irvine, CA 92612, (949) 283-8700, fax (949) 283-0770, e-mail: experts@mcsassociates.com. Website: www.mcsassociates.com. Contact Norman Katz, managing partner. Nationally recognized banking, finance, insurance, and real estate consulting group (established 1973). Experienced litigation consultants/experts include senior bankers, lenders, consultants, economists, accountants, insurance underwriters/brokers. Specialties include: lending customs, practices, policies, in all types of lending (real estate, business/commercial, construction, consumer/credit card), banking operations/administration, trusts and investments, economic analysis and valuations/damages assessment, insurance claims, coverages and bad faith, real estate development, brokerage, appraisal, escrow, and title insurance.

Cornerstone Research
633 West Fifth Street, 31st Floor, Los Angeles, CA 90071-2005, (213) 553-2500, fax (213) 553-2699. Website: www.cornerstone.com. Contact: George G. Strong, Jr., Richard W. Dalbeck, Katie J. Gailey, Elaine Harwood, Caryn Irwin, Pierrick Morel, or Ashish Pradhan. For more than 25 years, Cornerstone Research staff have provided economic and financial analysis in all phases of commercial litigation and regulatory proceedings. We work with a broad network of testing experts, including prominent faculty and industry practitioners, in a distinctive collaboration. The experts with whom we work bring the specialized expertise required to meet the demands of each assignment. Our areas of specialization include intellectual property, antitrust, securities, entertainment, real estate, financial institutions, and general business litigation.

Fulcrum Inquiry
889 South Figueroa Street, Suite 2000, Los Angeles, CA 90017, (213) 787-4100, fax (213) 891-1300, e-mail: dinote@fulcrum.com. Website: www.fulcrum.com. Contact David Nolte. Our professionals are experienced CPAs, MBAs, ASAs, CFAs, affiliated professors, and industry specialists. Our analysis and research combined with unique presentation techniques have resulted in an unequalled record of successful court cases and client recoveries. Our expertise encompasses damages analysis, loss profit studies, business and intangible asset valuations, fraud investigations, statistics, forensic economic analysis, royalty audits, strategic and market assessments, competitive surveys, analysis of computerized data, injury and employment damages, and a wide range of other financial advisory services. Degrees/licensed: CPAs, CFAs, ASAs, PhDs, and MBAs in accounting, finance, economics, and related subjects. See display ad on back cover.

Gursey | Schneider LLP
1888 Century Park East, Suite 900, Los Angeles, CA 90067, (310) 552-0960, fax (310) 557-3468, e-mail: nathbar@gursey.com or gk@gursey.com. Website: www.gursey.com. Contact Naz Afshar or Gary Krausz. Forensic accounting and litigation support services in the areas of marital dissolution, civil litigation, business valuation and appraisal, goodwill, business disputes, malpractice, tax matters, bankruptcy, damage and cost-profit assessments, insurance claims, court accounting, tracing, and entertainment industry litigation. See display ad on page 37.

Krycler, Ervin, Taubman, and Kaminsky

MDD Forensic Accountants
600 Wilshire Boulevard, Suite 1620, Los Angeles, CA 90017, (213) 624-7118, fax (213) 624-7120, e-mail: dmarkowicz@mdd.com. Website: www.mdd.com. Contact Dan Markowicz. MDD Forensic Accountants provide litigation services and expert witness testimony in courts, arbitrations and mediations around the world. Time and again, our assessments have stood up to the scrutiny of cross-examination, making us the firm of choice of legal professionals around the world. For more information, please visit our website at www.mdd.com.

RGL Forensics
Orange County Office: 625 City Drive South, Suite 290, Orange, CA 92868, (714) 740-2100. Contact Hank Kahrs, hkahrs@rgl.com, Alan Lurie, alurie@rgl.com. San Diego Office: 11440 W Bernardo Court, Suite 300, San Diego, CA 92127, (619) 236-0377. Contact Rich Holstrom, rholstrom@rgl.com. RGL Forensics is an...
international firm of forensic financial experts exclusively dedicated to damage analysis, fraud investigation, and valuation. Serving the legal, insurance, and business communities for more than 30 years, the firm is unique in its ability to combine investigative accounting, business valuation, fraud, and forensic technology expertise. For attorneys, we discover and define financial value in transactions and civil and criminal disputes, and when necessary provide expert witness testimony in court and arbitration proceedings. For more information about RGL, please visit www.rgl.com.

MICHAEL D. ROSEN, CPA, PHD, ABV
3780 Kilroy Airport Way, Suite 200, Long Beach, CA 90806, (562) 256-7052, fax (562) 256-7001, e-mail: mrosencpa@verizon.net. Website: www.mrosencpa.com.
Contact Michael D. Rosen. We are litigation consultants, forensic accountants, expert witnesses. Our mission is to tell the financial story that underlies every business litigation matter and to convey that story in a clear and concise manner to the trier of fact. Our findings allow a realistic assessment of the case and support settlement efforts. Our work is designed to render conclusive opinions and to withstand cross-examination. We specialize in business damages (lost profits and loss in value), personal damages (lost earnings), and business valuation.

SCHULZE HAYNES LOEVENGUTH & CO.
660 South Figueroa Street, Suite 1280, Los Angeles, CA 90017, (213) 627-8280, fax (213) 627-8301, e-mail: kshulze@schulzehaynes.com. Website: www.schulzehaynes.com.
Contact Karl J. Schulze. Our credentials include CPA, CVA, ABV, CFE, CFF and PhD. Our expertise includes analysis and testimony over a broad range of industries and issue areas. We provide advisory and testimony in matters involving economic damages, intellectual property disputes, employment, fraud and embezzlement, governance and shareholder matters, and alter ego, among others. We have worked with middle-market and Fortune 500 companies and have provided guidance on corporate governance, crisis management, strategic planning, insolvency management, acquisition and feasibility analysis and debt restructuring. We perform business valuations in disputed matters as well as for transactional purposes. Our experience includes serving as CEO, CFO, CPO, and our principals average well over 30 years’ experience each. See display ad on this page.

SMITH DICKSON, AN ACCOUNTANCY CORPORATION
18100 Von Karman Avenue, Suite 420, Irvine, CA 92612, (949) 553-1020, fax (949) 553-0249, e-mail: debbie.dickson@smithdickson.com. Website: www.smithdickson.com. Contact Deborah Dickson, CPA, CPA 25+ years, testifying 15+ years, forensic accounting and litigation support. Superior Litigation Support services since 1995. The professionals at Smith Dickson clearly, independently, and accurately analyze financial information, calculate damages, evaluate claims, prepare expert reports and render expert testimony. Thousands of hours of forensic accounting, deposition and trial experience. Damage calculations; lost profits; forensic accounting; expert testimony; intellectual property; fraud and embezzlement; real estate; trust and estate beneficiary disputes, tax controversy; business valuations; and business dissolution.

WHITE, ZUCKERMAN, WARSAVSKY, LUNA & HUNT
15490 Ventura Boulevard, Suite 300, Sherman Oaks, CA 91403, (818) 981-4226, fax (818) 981-4278, 4 Park Plaza, 2nd Floor, Irvine, CA 92614, (949) 219-9816, fax (949) 219-9095, e-mail: expert@wzwfh.com. Website: www.wzwfh.com. Contact Barbara Luna, Expert witness testimony for complex litigation involving damage analyses of lost profits, unjust enrichment, reasonable royalties, lost earnings, lost value of business, forensic accounting, fraud investigation, investigative analysis of liability, and marital dissolution, and tax planning and preparation. Excellent communicators with extensive testimony experience. Prior Big Four accountants. Specialties include accounting, breach of contract, breach of fiduciary duty, business interruption, business dissolution, construction defects, delays, and cost overruns, fraud, insurance bad faith, intellectual property (including trade-
Call in the EXPERTS.
Bringing quality experts into the 21st Century.

Pro/Consul, Inc.
Technical & Medical Experts

15,000 DISTINGUISHED EXPERTS IN MULTIPLE DISCIPLINES.

“Pro/Consul’s ability to locate appropriate expert witnesses is unsurpassed.”

1-(800) 392-1119
Listed and recommended by the A.M. Best Company
• Rigorous standards
• Tailored service
• Prompt turnaround
• Free initial consultations
• Free resume book
• Reasonable rates

LOCAL OFFICE
Pro/Consul Inc.
1945 Palo Verde Avenue, Suite 200
Long Beach, CA 90815-3443
(562) 799-0116 • Fax (562) 799-8821
Hours of Operation: 6 a.m. - 6 p.m.
eexperts@msn.com • ExpertInfo.com

A.D.R. Division
1-877-ARBITER
Retired Judges • Attorneys
Medical Doctors • Technical Experts
eminent domain, insurance losses, business interruption, goodwill, economic analysis, investigative auditing, loss of earning, commercial damages, and lost profits. Expert witness testimony preparation, settlement negotiations, and consultations. See display ad on page 47.

CIVIL LITIGATION
GURSEY | SCHNEIDER LLP
1888 Century Park East, Suite 900, Los Angeles, CA 90067, (310) 552-0960, fax (310) 557-3468, e-mail: gk@gursey.com. Website: www.gursey.com. Contact Gary Krausz. Gursey | Schneider specializes in forensic accounting and litigation support services in the areas of civil litigation, business disputes, bankruptcy, damage and cost-profit insurance claims, court accounting, fraud investigations, accounting malpractice, intellectual property, construction, government accounting, and entertainment litigation. Gursey | Schneider has over 38 years of experience as expert witnesses in accounting related matters. See display ad on page 37.

COMPOSITE & FIBERGLASS MATERIALS
KARS’ ADVANCED MATERIALS, INC.
Testing and Research Labs, 2528 West Woodland Drive, Anaheim, CA 92801-2826, (714) 527-7100, fax (714) 527-7169, e-mail: info@karslab.com. Website: www.karslab.com. Contact Dr. Ramesh Kar, Dr. Naresh Kar, Dr. Nikhil Kar. Southern California’s premier materials/mechanical/metallurgical/structural/forensics laboratory. Registered professional engineers with 30+ years in metallurgical/forensic/structural/mechanical failure analysis. Experienced with automotive, bicycles, tires, fire, paint, plumbing, corrosion, and structural failures. We work on both plaintiff and defendant cases. Complete in-house capabilities for tests. Extensive deposition and courtroom experience (civil and criminal investigations). Principals are Fellows of American Society for Metals and Fellows, American College of Forensic Examiners. See display ad on page 43.

COMPUTER FORENSICS
FULCRUM INQUIRY
888 South Figueroa Street, Suite 2000, Los Angeles, CA 90017, (213) 787-4100, fax (213) 891-1300, e-mail: dnolte@fulcrum.com. Website: www.fulcrum.com. Contact David Nolte. Our professionals are experienced CPAs, MBAs, ASAs, CFAs, affiliated professors, and industry specialists. Our analysis and research combined with unique presentation techniques have resulted in an unequalled record of successful court cases and client recoveries. Our expertise encompasses damages analysis, loss profit studies, business and intangible asset valuations, fraud investigations, statistics, forensic economic analysis, royalty audits, strategic and market assessments, competitive surveys, analysis of computerized data, injury and employment damages, and a wide range of other financial advisory services. Degrees/licenses: CPAs, CFAs, ASAs, PhDs, and MBAs in accounting, finance, economics, and related subjects. See display ad on back cover.

SETEC INVESTIGATIONS
8391 Beverly Boulevard, Suite 167, Los Angeles, CA 90036, (800) 748-5440, fax (323) 939-5481, e-mail: stefan@setecinvestigations.com. Website: www.setecinvestigations.com. Contact Todd Stefan. Setec Investigations offers unparalleled expertise in computer forensics and enterprise investigations providing personalized, case-specific forensic analysis and litigation support services for law firms and corporations. Setec Investigations possesses the necessary combination of technical expertise, understanding of the legal system, and specialized tools and processes enabling the discovery, collection, investigation, and production of electronic information for investigating and handling computer-related crimes or misuse. Our expertise includes computer forensics, electronic discovery, litigation support, and expert witness testimony.

A & E FORENSICS
Steven B. Norris, AIA, PE, GE, CEG, GBC, CASp
2121 Montiel Road  San Marcos, CA 92069  (877) 839-7302
- ARCHITECTURE
- CONSTRUCTION
- ADA
- GEOTECHNICAL ENGINEERING
- CIVIL ENGINEERING
- STRUCTURAL ENGINEERING
www.aeforensics.com
COMPUTERS/INFORMATION SCIENCES

COSGROVE COMPUTER SYSTEMS, INC.
7411 Earlom Avenue, Playa del Rey, CA 90293, (310) 823-9448, fax (310) 821-4021, e-mail: ccosgrove@computer.org. Website: www.cosgrovecomputer.com.

Contact John Cosgrove. John Cosgrove, PE, has over 50 years of experience in computer systems and has been a self-employed, consulting software engineer since 1970. He was a part-time lecturer in the UCLA School of Engineering and LMU graduate schools. He provided an invited article, “Software Engineering and Litigation,” for the Encyclopedia of Software Engineering. He is a Certified Forensic Consultant (CFC), holds the CDP, is a member of ACM, ACFEI, FEWA, a life senior member of IEEE and an affiliate member of NSPE, and a member of the National Academy of Forensic Engineers (an affiliate of NSPE), and a professional engineer in California. Formal education includes a BSEE from Loyola University (now LMU) and a master of engineering from UCLA. He currently serves as Past President of the UCLA Engineering Alumni Association.

CONSTRUCTION

FORENSISGROUP
EXPERT WITNESS SERVICES SINCE 1991
301 North Lake Avenue, Suite 420, Pasadena, CA 91101. (800) 565-2422, fax (805) 795-5900, e-mail: info@forensisgroup.com. Website: www.forensisgroup.com.

Contact Rey Tolentino. As a leader in expert witness services for over 25 years, we specialize in providing clients with a premier selection of experts and comprehensive level of service. Over 20,000 clients have relied on us for an easy way of connecting with highly qualified experts across a wide range of industries to gain a competitive edge. We offer customized searches, referrals, and initial phone consultations at no cost or obligation to you. In over 30,000 cases, we’ve provided experts to uncover the truth from thousands of complex subject matters such as construction, engineering, business, accounting, intellectual property, computers, IT, medical, real estate, insurance, product liability, premises liability, and others, including hard-to-find disciplines. We’re committed to being socially responsible to our clients and our local and global communities through education, nutrition and alternative energy applications.

Excellent client references provided on request.

EXTENSIVE COURT EXPERIENCE

Jay Rosenthal CCMI
ANIS CERTIFIED CONSULTING METEOROLOGIST
NATIONAL WEATHER SERVICE WEATHER SPOTTER
Phone 918.645.8632 Fax 310.454.6530
E-mail AirWeather@aol.com
www.weatherman.org
P.O. Box 512 Pacific Palisades, CA 90272

When you need more than just numbers... you can count on us...

Contact Michael KryAlter
PHONE (818) 995-1040
FAX (818) 995-4124
E-MAIL MIKE@KETKCPA.COM
VISIT US @ www.ketkcpa.com
15303 VENTURA BOULEVARD, SUITE 1440
SHerman Oaks, CALIFORNIA 91403

CORPORATE INVESTIGATIONS

FULCRUM INQUIRY

888 South Figueroa Street, Suite 2000, Los Angeles, CA 90017, (213) 787-4100, fax (213) 691-1300, e-mail: drone@fulcrum.com. Website: www.fulcrum.com.

Contact David Nolte. Our professionals are experienced CPAs, MBAs, ASAs, CFAs, affiliated professors, and industry specialists. Our analysis and research combined with unique presentation techniques have resulted in an unprecedented record of successful court cases and client recoveries. Our expertise encompasses damages analysis, loss of profits studies, business and intangible asset valuations, fraud investigations, statistics, forensic economic analysis, royalty audits, strategic and market assessments, competitive surveys, analysis of computerized data, injury and employment damages, and a wide range of other financial advisory services. Degrees /licenses: CPAs, CFAs, ASAs, PhDs, and MBAs in accounting, finance, economics, and related subjects.

See display ad on back cover.

RGL FORENSICS

Orange County Office: 625 City Drive South, Suite 290, Orange, CA 92868, (714) 740-2100. Contact Hank Kahrs, hkahrs@rgl.com, Alan Lurie, alurie@rgl.com. San Diego Office: 11400 W Bernardo Court, Suite 300, San Diego, CA 92127, (619) 208-0377. Contact Rich Holstrom, richholstrom@rgl.com. RGL Forensics is an international firm of forensic financial experts exclusively dedicated to damage analysis, fraud investigation, and valuation. Serving the legal, insurance, and business communities for more than 30 years, the firm is unique in its ability to combine investigative accounting, business valuation, fraud, and forensic technology expertise. For attorneys, we discover and define financial value in transactions and civil and criminal disputes, and when necessary provide expert witness testimony in court and arbitration proceedings. For more information about RGL, please visit www.rgl.com.

WHITE, ZUCKERMAN, WARSZAVSKY, LUNA & HUNT

15490 Ventura Boulevard, Suite 300, Sherman Oaks, CA 91403, (818) 981-4226, fax (818) 981-4278, 4 Park Plaza, 2nd Floor, Irvine, CA 92614, (949) 219-9816, fax (949) 219-9805, e-mail: expert@wzw.com. Website: www.wzw.com. Contact Barbara Luna. Expert witness testimony for complex litigation involving damage analyses of lost profits, unjust enrichment, reasonable royalties, lost earnings, value of business, forensic accounting, fraud investigation, investigative analysis of liability, and marital dissolution, and tax planning and preparation. Excellent communicators with extensive testimony experience. Prior Big Four accountants. Specialties include accounting, breach of contract, breach of fiduciary duty, business interruption, business dissolution, construction defects, delays, and cost overruns, fraud, insurance bad faith, intellectual property (including trademark, patent, and copyright infringement, and trade secrets), malpractice, marital dissolution, personal injury, product liability, real estate, securities, tax planning and
preparation, IRS audit defense, tracing, unfair advertising, unfair competition, valuation of businesses, and wrongful termination. See display ad on page 41.

COSMETIC, PLASTIC AND RECONSTRUCTIVE SURGERY

JOHN M. SHAMOUN, MD, FACS, INC.
366 San Miguel Drive, Suite 310, Newport Beach, CA 92660, (949) 759-3077, fax (949) 759-3087, e-mail: jmshamoun@aol.com. Website: www.ideallook.com.
Contact Yvonne. Specialties: only plastic surgeon in the United States board certified by the 1) American Board of Surgery, 2) American Board of Plastic Surgery, 3) American Board of Facial Plastic and Reconstructive Surgery, and 4) American Board of Forensic Medicine. Extensive experience in all aspects of cosmetic, plastic, and reconstructive surgery of the breast, nose, face, eye, and body. Well-published author of several textbook chapters and journal articles related to above topics. Extensive experience in medical malpractice case review, consultation, written evaluation and testimony in depositions and trial for plaintiff and defense. Articulate subspecialty consultant with up-to-date knowledge and expertise of plastic surgery literature and standards of care. Opinions supported by extensive subspecialty education, training, and experience.

CREDIT REPORTING, SCORING & DAMAGES EXPERT

EASY CREDIT RELIEF, INC.
2625 Townsgate Road, Suite 330, Westlake Village, CA 91361, (805) 267-3077, fax (805) 267-3087, e-mail: doug@eastcreditrelief.com. Website: www.creditdamagesexpert.com. Contact Doug Minor. Credit reporting, score and damages expert witness/consultant with over 30 years of experience. He has passed the required examination to receive from the CDA a Fair Credit Reporting Act Certification and can help with credit report evaluation preparing credit damages report, modifying credit scoring and reporting codes, types of credit damages, assessing violations of the Fair Credit Reporting Act (FCRA), as well as industry standards of dispute resolution process and review of residential mortgage loan documents. Evaluate testimony, and developing questions for deposition and trial. Since 2010 he has been involved in over 100 cases, as well as been qualified and testified in both Federal and State Courts.

DENTIST

RICHARD BENVENISTE, DDS, MSD
19231 Victory Boulevard, Suite 256, Reseda, CA 91335, (818) 881-2337, fax (818) 881-6183, e-mail: yourgums@ig.com. Website: www.yourgums.com. Contact Richard Benveniste, DDS, MSD. Previous three-term officer of State Dental Board of California, having ruled on all phases of dental practice. Practicing as an expert, consultant, evaluator and teacher in the treatment of TMJ, personal injury (PI), lien cases, and dental injury. Multiple distinguished service citations from California State Department of Consumer Affairs. Provider of continuing education courses on oral diagnosis, oral medicine, treatment modalities, TMJ diagnosis and therapy. Multiple long-term professional organization memberships. Degrees/licenses: Doctor of Dental Surgery, (DDS); Master of Science in Dentistry (MSD).

JAY GROSSMAN DDS

11980 San Vicente Boulevard, Suite 507, Brentwood, CA 90049, (310) 820-0123, e-mail: jaygrossmandds@gmail.com. Website: www.expertwitness.dental. Contact Dr. Jay Grossman. Dental malpractice & injury expert testimony. As of January 2018: Have been deposed over 100 times; reviewed over 600 cases for both defense and plaintiff including peer review, accidents, and malpractice. 60% plaintiff / 40% defense. Have qualified in Superior Court over 50 times and never been disqualified. At least 95% of my time is spent in patient care. I can be counted on to be ethical, competent, prepared and analytical as well as articulate and persuasive at depositions and court appearances. Published and have been written about in print, radio, and TV over 175 times. (http://www.drjaydds.com/expert-testimony—click on Media Coverage/Write ups) Expert on issues including: standard of care, cosmetics, lasers, extractions, nerve damage, valuation, informed consent, antibiotic coverage, TMJ/TMD, orthodontics including Invisalign, sleep apnea, treatment planning, occlusion and vertical dimension, electrosurgery, abscess, resorption, implants, crowns, root canal, veneers, periodontics, failure to diagnose or refer, and patient infringement. Licensed in 42 states to opine on standard of care, with specific license in California, Nevada, and the Northeast as well as a Florida Expert Certification. Graduated NYU 1968; Lieutenant, United States Navy 1989-91; private practice Brentwood, CA since 1991—serving over 13,000 patients on a fee for service basis; Professorship at 2 Universities: UCLA School of dentistry as well as Western University College of dental medicine. Member: American Academy of Cosmetic Orthodontics—2013, ADA since 1991 and Peer Review Committee ADA 1995-2009, Delta Dental Peer Review 2000-present, Founder & CEO—Homeless Not Toothless 1991-present. www.homelessnottoothless.org, providing over $3-Million in probono dental care to home- less veterans, foster children and the indigent.

DEVELOPMENT

CASTLELYONS CORPORATION

Forty-five years in the entitlement, development and homebuilding industry. Areas of expertise: partnership disputes, industry customs/practices, standard of care issues, brokerage complaints and fraud/misconduct. MBA/USC, CA and HI Broker’s licenses. Seasoned expert with proved trial testimony on a variety of real estate cases. For career accomplishments, testimonials and other areas of expertise, please refer to website at www.castlelyons.net or contact Michael K. Ryan, President, Castlelyons Corporation at (619) 787-5988. See display ad on page 49.
real estate consulting group (established 1973). Experienced litigation consultants/experts include senior bankers, lenders, consultants, economists, accountants, insurance underwriters/brokers. Specialties include: lending customs, practices, policies, in all types of lending (real estate, business/commercial, construction, consumer/credit card), banking operations/administration, trusts and investments, economic analysis and valuations/damages assessment, insurance claims, coverages and bad faith, real estate development, brokerage, appraisal, escrow, and title insurance.

CMM, LLP
With offices in Woodland Hills and El Segundo, (818) 986-5070, fax (818) 986-5034, e-mail: rschreiber@cmmcpas.com. Website: www.cmmcpas.com. Contact Robert Schreiber. Specialties: consultants who provide extensive experience, litigation support, and expert testimony regarding forensic accountants, fraud investigations, economic damages, business valuations, family law, bankruptcy, and reorganization. Degrees/licenses: CPAs, CFEs, MBAs. See display ad on page 35.

FULCRUM INQUIRY
888 South Figueroa Street, Suite 2000, Los Angeles, CA 90017, (213) 787-4100, fax (213) 891-1300, e-mail: drolte@fulcrum.com. Website: www.fulcrum.com. Contact David Nolte. Our professionals are experienced CPAs, MBAs, ASAs, CFAs, affiliated professors, and industry specialists. Our analysis and research combined with unique presentation techniques have resulted in an unequaled record of successful court cases and client recoveries. Our expertise encompasses damages analysis, loss, profit studies, business and intangible asset valuations, fraud investigations, statistics, forensic economic analysis, royalty audits, strategic and market assessments, competitive surveys, analysis of computerized data, injury and employment damages, and a wide range of other financial advisory services. Degrees/licenses: CPAs, CFAs, ASAs, PhDs, and MBAs in accounting, finance, economics, and related subjects. See display ad on back cover.

ELDER ABUSE
HAMPTON HEALTH, LTD™
JOHN H. FULLERTON, MD, MRO, CMD, CFP, FACP, AGSF, FAAHPM
1700 California Street, Suite 470, San Francisco, CA 94109, (415) 460-5532, fax (415) 378-5820, e-mail: fulleromd@hhltd.me. Website: hamptonhealthltd.com. Contact John H. Fullerton. Services available: Board Certified in Internal Medicine, Geriatrics, Hospice, Palliative Medicine, Addiction Medicine, and Home Health; Licensed Medical Review Officer. Expertise: Medicare fraud cases for the government, toxicology/DUI, elder abuse including criminal defense of lay caregivers accused of homicide of demented relatives during end-of-life phase. Hospital, ambulatory/outpatient, PI, medical malpractice, and LTC. Medical/hospice directorships. Testified over 200 times and reviewed more than 1,500 cases, including Medicare audits for the government. See display ad on page 43.

ELECTRONIC DISCOVERY
SETEC INVESTIGATIONS
8391 Beverly Boulevard, Suite 167, Los Angeles, CA 90063, (323) 748-5440, fax (323) 939-5481, e-mail: tstefan@setecinvestigations.com. Website: www.setecinvestigations.com. Contact Todd Stefan. Setec Investigations offers unparalleled expertise in computer forensics and enterprise investigations providing personalized, case-specific forensic analysis and litigation support services for law firms and corporations. Setec Investigations possesses the necessary combination of technical expertise, understanding of the legal system, and specialized tools and processes enabling the discovery, collection, investigation, and production of electronic information for investigating and handling computer-related crimes or misuse. Our expertise includes computer forensics, electronic discovery, litigation support, and expert witness testimony.
EMPLOYMENT/WAGE EARNING CAPACITY

RGL FORENSICS
Orange County Office: 625 City Drive South, Suite 290, Orange, CA 92869, (714) 740-2100. Contact Hank Kahrs, hhkahrs@rgl.com, Alan Lurie, alurie@rgl.com. San Diego Office: 11440 W Bernardo Court, Suite 300, San Diego, CA 92129, (619) 236-0377. Contact Rich Holstrom, rholstrom@rgl.com. RGL Forensics is an international firm of forensic financial experts exclusively dedicated to damage analysis, fraud investigation, and valuation. Serving the legal, insurance, and business communities for more than 30 years, the firm is unique in its ability to combine investigative accounting, business valuations, fraud, and forensic technology expertise. For attorneys, we discover and define financial value in trans-actions and civil and criminal disputes, and when necessary provide expert witness testimony in court and arbitration proceedings. For more information about RGL, please visit www.rgl.com.

ENGINEER/TRAFFIC
WILLIAM KUNZMAN, PE
1111 Town and Country #34, Orange, CA 92688, (714) 904-2821, e-mail: bill@traffic-engineer.com. Website: www.traffic-engineer.com. Contact William Kunzman, PE. Traffic expert witness since 1979, both defense and plaintiff. Auto, pedestrian, bicycle, and motorcycle accidents. Largest plaintiff verdicts: 1) $12,200,000 in pedestrian accident case against Caltrans, 2) $10,000,000 in case against Los Angeles Unified School District, 3) $2,000,000 solo vehi-cler accident case against Caltrans. Best defense verdicts: 1) $0 while defending Caltrans and opposition sought $16,000,000. 2) $0 defending City of Long Beach and opposition sought $15,000,000. Before becoming expert witness employed by Los Angeles County Road Department, Riverside County Road Department, City of Irvine, and Federal Highway Administration. Knowledge of gov-ernmental agency procedures, design, geometrics, signs, traffic controls, maintenance, and pedestrian protection barriers. Hundreds of cases. Undergraduate work— UCLA, graduate work— Yale University.

ENGINEERING
4X FORENSIC ENGINEERING LABORATORIES, INC.
5262 Oceanus Drive, Huntington Beach, CA 92649, (714) 450-8500, fax (714) 450-8598, e-mail: phil@4xforensics.com. Website: www.4xforensics.com. Contact Phil Van Herle. 4X Forensic Engineering Laboratories is a full-ser vice forensic engineering laboratory. We provide expert witness and analytical and testing services in the following areas: fires and explosions, electrical and gas product defect investigations, thermal and fire modeling and labora-tory testing; water loss: materials, corrosion, and failure analysis of plumbing products; failure analysis: metallurgy, product testing, and computerized stress analysis; acci-dent reconstruction: automotive, trucks, construction equipment, and premises liability. See display ad on page 39.

A & E FORENSICS
2121 Montiel Road, San Marcos, CA 92069, (877) 839-7302, fax (760) 480-7477, e-mail: steve@aeforensics.com. Website: www.aeforensics.com. Contact Steve Norris, AIA, PE, GE, HG, CEG, CAPS, LEED. Architect and construction consultant—standard of care expert. Retained over 200 times, deposed over 100 times, and testified in trial over 20 times. Waterproofing, water intrusion, building envelope, zoning setbacks, concrete performance, path of travel, structural analysis, earthquake-fire, excavation, foundation settlement, landslides, retaining wall failure, settlement, flooding, grading, septic, expansive soils, mud flows, pavement distress, ground water evalua-tion, and slope analysis. Cost estimates, construction management, delay analysis, and contracts. Serving all California, Hawaii, and Oklahoma. See display ad on page 35.

EXPONENT

SCS ENGINEERS
3900 Kiroy Airport Way, Suite 100, Long Beach, CA 90806, (562) 427-0850, e-mail: jyuno@scsengineers.com. Contact Julio Nuno, VP. SCS provides expert witness services related to environmental studies and engineering, water resources, solid waste and air quality and industrial hygiene and safety services. We are a 45-year old con-sulting firm with 65 offices across the US and nearly 800 employees. Our Long Beach office has more than 30 pro-fessional engineers, scientists, and subject matter experts available on short notice to serve asbestos, lead-based paint, and other specialty areas requiring expert witness services.

ENGINEERING/GEOTECHNICAL
COTTON SHIRES & ASSOCIATES, INC.
Southern California branch, serving greater So. Cal. area, (805) 375-1050, fax (805) 375-1059, e-mail: mphpipps@cottoshires.com. Website: www.cottoshires.com. Contact Michael Phipps or Patrick O. Shires. Full service geotechnical engineering consulting firm specializing in investigation, design, arbitration, and expert witness testimony with offices in Los Gatos, Thousand Oaks, and San Andreas, California. Earth movement, soil creep, landslides, tunneling and expansive soil, founda-tion distress (movement and cracking of structures), drainage and grading issues (seepage through slabs, moisture intrusion, nuisance water, and ponding water in crawlspaces), pavement and slab distress (cracking and separating), retaining walls (movement, cracking, and fail-ure), pipelines, flooding and hydrology, design and con-struction deficiencies, aerial photo analysis; expert testi-mony at 87+ trials (municipal, superior, and federal), 230+ depositions, 250+ settlement conferences in California, Nevada, Hawaii, and Michigan.

ENVIRONMENTAL
SCS ENGINEERS
3900 Kiroy Airport Way, Suite 100, Long Beach, CA 90806, (562) 426-9544, fax (562) 427-0850, e-mail: jyuno@scsengineers.com. Contact Julio Nuno, VP. SCS provides expert witness services related to environmental studies and engineering, water resources, solid waste and air quality and industrial hygiene and safety services. We are a 45-year old con-sulting firm with 65 offices across the US and nearly 800 employees. Our Long Beach office has more than 30 pro-fessional engineers, scientists, and subject matter experts available on short notice to serve asbestos, lead-based paint, and other specialty areas requiring expert witness services.

THE REYNOLDS GROUP
P.O. Box 1996, Tustin, CA 92781-1996, (714) 730-5397, fax (714)730-6476, e-mail: edreynolds@reyengroup.com. Website: www.reynolds-group.com. Contact Ed Reynolds, RCE, Principal. An environmental consult-ing, and contracting firm. Expertise: environmental conta-mination, assessment, remediation, reasonable value of construction, standard of care, and related financial mat-ters. Degrees in Civil Engineering: USC (BS), University of Houston (MS), (MBA) Harvard. California Registered Civil Engineer, Licensed A, B, HAZ California Contractor. 30 years’ experience. Adjunct Faculty Member USC Viterbi School of Engineering Department of Civil and Environ-mental Engineering.

ENVIRONMENTAL ENGINEER
WZI INC. (ENVIRONMENTAL ENGINEERS)
1717 28th Street, Bakersfield, CA 93301, (661) 326-1112, fax (661)326-6480, e-mail: mansfield@wzinc.com. Website: www.wzinc.com. Contact Mary Jane Wilson, BS. petroleum engineering environmental assessor REPA 450005. Specialties include regulatory compliance, petro-leum, and power generation.

ESCROW ADVISORS/EXPERTS @ MCS ASSOCIATES
18881 Von Karman, Suite 1175, Irvine, CA 92612, (949) 283-8700, fax (949) 283-0770, e-mail: experts@mcsassociates.com. Website: www.mcsassociates.com. Contact Norman Katz, managing partner. Nationally recognized banking, finance, insurance, and real estate consulting group (established 1973). Experienced litigation consultants/experts include senior bankers, lenders, consultants, economists, accountants, insurance underwriters/brokers. Specialties include: lending customs, practices, policies, in all types of lending (real estate, business/commercial, construction, con-sumers/credit card), banking operations/administration, trusts and investments, economic analysis and valua- tions/damages assessment, insurance claims, coverages and bad faith, real estate development, brokerage, appraisal, escrow, and title insurance. See display ad on page 33.

EXPERT REFERRAL SERVICE
PRO/CONSULT
TECHNICAL AND MEDICAL EXPERTS
1945 Palo Verde Avenue, Suite 200, Long Beach, CA 90815, (800) 392-1119, fax (562) 799-8821, e-mail: experts@proconsult.com. Website: www.proconsult.com. Contact Jesse De La Torre. Right expert right away! We are listed and recommended by the A.M. Best Company. We welcome your rush cases! 15,000 medical and technical experts in over 3,000 fields, many in the Southern California area. Pro/Consult strives to provide the best experts at a reasonable cost, including medical doctors for IME’s, biomechanical engineers, accident reconstruction, electrical engineers, fire cause and origin, neuropsychology, accounting and economics, materials and metallurgy, engineering, plastics, appraisal and valua-tion, construction, human factors, insurance, lighting, marine, mechanical, medical billing, roof, safety, security, SOC, toxicology, MDs, RNs, etc. Free resume binder. See display ad on page 33.

TASA (A DIVISION OF THE TASA GROUP, INC.)
Providing Outstanding Local, National and Global Experts in ALL Categories of Expert Witness, Civil and Criminal, Contact Deborah Morris, (800) 523-2319, fax (800) 329-8272, e-mail: experts@TASAnet.com. Website: www.TASAnet.com. Since 1956, TASA has been your source for a variety of superior quality, independent testing and consulting experts. We offer more than 11,000 diverse categories of expertise and hard-to-find specialties in technology, business, the arts, and sciences, including 1,000+ medical areas through our sister company, TASAmed. Our experienced referral advisors target your criteria and connect you with the experts available to discuss your case. There is no charge for our services until you engage or designate an expert witness we refer. Visit our website to search expert profiles by expertise key word, order due diligence research reports on your expert witness or opposing counsel’s, request an expert through our online form. Explore the Knowledge Center to read expert-authored articles and view archived webinars. While on our website, you can register for upcoming webinars and sign up to receive our electronic newsletters. Save $175 (admin fee) on your first expert witness designation with Promo Code: LA18. Be sure to check out our insert and display ad in this issue! Please see our insert in this issue and display ad on page 30.

Please see our insert in this issue and display ad on page 30.
We are experts in damages, accounting and valuation. Don’t settle for less.

White Zuckerman Warsavsky Luna Hunt LLP

Certified Public Accountants

Los Angeles Office
818-981-4226

Orange County Office
949-219-9816

Expert witnesses and litigation consultants for complex litigation involving analyses of lost profits, lost earnings and lost value of business, forensic accounting and fraud investigation

Other areas include marital dissolution, accounting and tax

Excellent communicators with extensive testimony experience

Offices in Los Angeles and Orange County

Call us today. With our litigation consulting, extensive experience and expert testimony, you can focus your efforts where they are needed most.

www.wzwlh.com E-mail: expert@wzwlh.com
enced CPAs, MBAs, ASAs, CFAs, affiliated professors, and industry specialists. Our analysis and research combined with unique presentation techniques have resulted in an unparalleled record of successful court cases and client recoveries. Our expertise encompasses damages analysis, loss profit studies, business and intangible asset valuations, fraud investigations, statistics, forensic economic analysis, royalty audits, strategic and market assessments, competitive surveys, analysis of computerized data, injury and employment damages, and a wide range of other financial advisory services. Degrees/licenses: CPAs, CFAs, ASAs, PhDs, and MBAs in accounting, finance, economics, and related subjects. See display ad on back cover.

HAYNIE & COMPANY, CPAS
4910 Campus Drive, Newport Beach, CA 92660-2119, (949) 724-1880, fax (949) 724-1889, e-mail: sgabrielson@hayniecpa.com. Website: www.hayniecpa.com. Contact Steven C. Gabrielson.

Consulting and expert witness testimony in a variety of practice areas: commercial damages, ownership disputes, economic analysis, business valuation, lost profits analysis, fraud/forensic investigations, taxation, personal injury, wrongful termination, and professional liability.

FIRE/EXPLOSIONS
4X FORENSIC ENGINEERING LABORATORIES, INC.
5262 Oceanus Drive, Huntington Beach, CA 92649, (714) 450-8500, fax (714) 450-8599, e-mail: phil@4Xforensic.com. Website: www.4Xforensic.com. Contact Phil Van Herle.

4X Forensic Engineering Laboratories is a full-service forensic engineering laboratory. We provide expert witness and analytical and testing services in the following areas: fires and explosions: electrical and gas product defect investigations, thermal and fire modeling and laboratory testing; water loss: materials, corrosion, and failure analysis of plumbing products; failure analysis: metallurgy, product testing, and computerized stress analysis; accident reconstruction: automotive, trucks, construction equipment, and premises liability. See display ad on page 39.

FOOD SAFETY/HACCP
FOOD SAFETY AND HACCP COMPLIANCE
20938 De Mina Street, Woodland Hills, CA 91364, (818) 703-7147, e-mail: jeffnelken@cs.com. Website: www.foodsafetycoach.com. Contact Jeff Nelken, BS, MA. Master allergy trainer and forensic food safety expert knowledgeable in both food safety, accident prevention and hazard analysis critical control point program development. Specializes in expert witness testimony and litigation consultant in matters regarding food safety, Q.A., standards of performance, HACCP, crisis management, food-borne illness, burns, foreign object, accidents, health department representation, food spoilage, allergy, intentional contamination and customer complaints. Performs inspections, vendor audits, site visits, reviews Health Department and third party inspections, training and public speaking. Hands-on food safety consultant for restaurants, manufacturers, distributors, country clubs, schools, nursing homes, and casinos. NRA SERVSAFE certified instructor. Thirty years of food and hospitality experience. Registered as a certified provider with the Los Angeles County Health Department. Forensic food safety expert. Food safety expert for CBS, NBC, Inside Edition and CNN. Free consultation for law firms and insurance companies.

FORENSIC ACCOUNTING
CORNERSTONE RESEARCH
633 West Fifth Street, 31st Floor, Los Angeles, CA 90071-2005, (213) 553-2500, fax (213) 553-2699. Website: www.cornerstone.com. Contact George G. Strong, Jr., Richard W. Dalbeck, Katie J. Gailey, Elaine Harwood, Carlyn Irwin, Pierrick Morel, or Ashish Pradhan. For more than 25 years, Cornerstone Research staff have provided economic and financial analysis in all phases of commercial litigation and regulatory proceedings. We work with a broad network of testi...
flying experts, including prominent faculty and industry practitioners, in a distinctive collaboration. The experts with whom we work bring the specialized expertise required to meet the demands of each assignment. Our areas of specialization include intellectual property, antitrust, securities, real estate, entertainment, retail, estate, financial institutions, and general business litigation.

FULLCRUM INQUIRY

888 South Figueroa Street, Suite 2000, Los Angeles, CA 90017, (213) 787-4100, fax (213) 891-1300, e-mail: dnicot@fullcrum.com. Website: www.fullcrum.com. Contact David Noite. Our professionals are experienced CPAs, MBAs, ASAs, CFAs, affiliated professors, and industry specialists. Our analysis and research combined with unique presentation techniques have resulted in an unequaled record of successful court cases and client recoveries. Our expertise encompasses damage analysis, loss profits, business and intangible asset valuations, fraud investigations, statistics, forensic economic analysis, royalty audits, strategic and market assessments, competitive surveys, analysis of computerized data, injury and employment damages, and a wide range of other financial advisory services. Degrees/licenses: CPAs, CFAs, ASAs, PhDs, and MBAs in accounting, finance, economics, and related subjects.

See display ad on back cover.

GURSEY | SCHNEIDER LLP

1888 Century Park East, Suite 900, Los Angeles, CA 90067, (310) 552-0960, fax (310) 557-3468, e-mail: tinaf@gsx.com or kristenl@gsx.com. Website: www.gsx.com. Contact Tina Fujisaki or Kristen L. Gillespie. Gursey | Schneider specializes in forensic accounting and litigation support services in the areas of civil litigation, business disputes, bankruptcy, damage and cost-profit insurance claims, court accounting, fraud investigations, and business malpractice, intellectual property, construction, government accounting, and entertainment litigation. Gursey | Schneider has over 38 years of experience as an expert witness in accounting related matters. See display ad on page 37.

PAMELA WAX-SENUM, CFE WS ENTREPRISES

107 North Reino Road, #402, Newbury Park, CA 91320, (805) 498-0386, e-mail: paulax@tracingqueen.net. Website: www.tracingqueen.net. Contact Pamela Wax-Senum, CFE. I am experienced in most areas of litigation support services with a particular emphasis in tracing of assets, real property allocation, stock option, accounting, malpractice claims and related allocation issues. I have vast experience not only in marital dissolution matters. My expertise extends to trust and probate accounting, fraud, and other litigation-related matters.

RGL FORENSICS

Orange County Office: 625 City Drive South, Suite 290, Orange, CA 92869, (714) 740-2100. Contact Hank Kahrs, hkahrs@rgl.com, Alan Lurie, alurie@rgl.com. San Diego Office: 11440 W Bernardo Court, Suite 300, San Diego, CA 92127, (858) 236-0377. Contact Rich Hohstrum, rhohstrum@rgl.com. RGL Forensics is an international firm of forensic financial experts exclusively designed to do damage analysis, fraud investigation, and valuation. Serving the legal, insurance, and business communities for more than 30 years, the firm is unique in its ability to combine investigative accounting, business valuation, securities, and financial technology expertise. For attorneys, accountants, and financial professionals, RGL provides forensic accounting services and opinions in fraud, business valuation, construction, and insurance-related litigation. Our experts have extensive experience in a variety of industries and practice areas.

SMITH DICKSON, AN ACCOUNTANCY CORPORATION

1840 Von Karman Avenue, Suite 420, Irvine, CA 92612, (949) 553-1020, fax (949) 553-0249, e-mail: debbie.dickson@smithdickson.com. Website: www.smithdickson.com. Contact Deborah Dickson, CPA. CPA 25+ years, testifying 15+ years, forensic accounting and litigation support. Superior Litigation Support services since 1995. The professionals at Smith Dickson clearly, independently, and accurately analyze financial information, calculate damages, evaluate claims, prepare expert reports and render expert testimony. Thousands of hours of forensic accounting, deposition and trial experience. Damage calculations; lost profits; forensic accounting; expert testimony; intellectual property; fraud & embezzlement; real estate; trust & estate beneficiary disputes, tax controversy; business valuations; business dissolution.

WHITE, ZUCKERMAN, WARSAVSKY, LUNA & HUNT

15490 Ventura Boulevard, Suite 300, Sherman Oaks, CA 91403, (818) 981-4229, fax (818) 981-4279, 4 Park Plaza, 2nd Floor, Irvine, CA 92614, (949) 219-9816, fax (949) 219-9095, e-mail: expert@wwzh.com. Website: www.wwzh.com. Contact Barbara Luna. Expert witness testimony for complex litigation involving damage analyses of lost profits, unjust enrichment, reasonable royalties, lost earnings, lost value of business, forensic accounting, fraud investigation, investigative analysis of liability, and marital dissolution, and tax planning and preparation. Excellent communications with extensive trial experience. Prior Big Four accountants. Specialties include accounting, breach of contract, breach of fiduciary duty, business interruption, business dissolution, construction defects, delays, and cost overruns, fraud, insurance bad faith, intellectual property (including trademark, patent, and copyright infringement, and trade secrets), malpractice, marital dissolution, personal injury, product liability, real estate, securities, tax planning and preparation, IRS audit defense, tracing, unfair advertising, unfair competition, valuation of businesses, and wrongful termination. See display ad on page 41.

FORENSIC ANALYSIS

BRIAN LEWIS & COMPANY

10866 Wilshire Boulevard, 10th Floor, Los Angeles, CA 90024, (310) 475-5676, e-mail: brian@brianlewis-cpa.com. Contact Brian Lewis, CPA, CVA. Forensic accounting, business valuations, cash spendable reports, estate, trust, and income tax services.

FORENSIC PATHOLOGY AND TOXICOLOGY

BURR HARTMAN, DO, PHD

BURR HARTMAN CONSULTING

36587 Hwy 19/P.O. Box 725, Springville, CA 93265, (559) 536-5030, www.burrhartman.com. Contact Burr Hartman, MD, PhD. Forensic pathologist with PhD in chemistry. Board certified in anatomic, clinical and forensic pathology. Consultant for Microcorre DX Lab, Tulare, CA which provides services for Tulare Regional Medical Center, coroner’s pathology for three sheriff-coroner departments and consultation for Mineral King Toxicology Laboratory. Broad-based scientific background and longstanding interest in toxicology. Testified/deposed 50 times in last 4 yrs. Interested in technical and scientific issues encountered and not usually encountered in clinical practice. See display ad on page 47.

GEOTECHNICAL ENGINEERING

A & E FORENSICS

2121 Montiel Road, San Marcos, CA 92069, (619) 837-7302, fax (760) 480-7477, e-mail: steve@aeforensics.com. Website: www.aeforensics.com. Contact Steve Norris, AIA, PE, GE, HQ, CEG, CASP, LEED, Archi-tect, engineer, contractor—standard of care expert. Retained over 200 times, deposed over 100 times, and testified in trial over 20 times. Waterproofing, water intrusion, building envelope, zoning setbacks, concrete performance, path of water, structural analysis, earthquake/fire damage, and plan analysis. Landslides, retaining wall failure, settlement, flooding, grading, septic, expansive soils, mud flows, pavement distress, ground water evaluation, and slope analysis. Cost estimates, construction management, delay analysis, and contracts. Serving all California, Hawaii, and Oklahoma. See display ad on page 35.

GERIATRICS

HAMPION HEALTH, LTD™

JOHN H. FULLERTON, MD, MRO, CMD, CFP, FACP, AGSF, FFAHPM

1700 California Street, Suite 470, San Francisco, CA 94109, (415) 460-5532, fax (415) 376-5820, e-mail: fullertonmd@tttdtc.com. Website: hampionhealthtdt.com. Contact John H. Fullerton. Services available: Board Certified in Internal Medicine, Geriatrics, Hospice, Palliative Medicine, Addiction Medicine, and Home Health; Licensed Medical Review Officer. Expertise: Medicare fraud cases for the government, toxicology/DUI, elder abuse including criminal defense of lay caregivers accused of homicide of demented relatives during end-of-life phase, Hospital, ambulatory/outpatient, PI, medical malpractice, and LTC. Medical/hospice directorships. Testified over 200 times and reviewed more than 1,500 cases, including Medicare audits for the government. See display ad on page 43.

GOLF

MICHAEL S. JOHNSTONE, AIA

15 Southern Fairway Court, Eltoway Valley, CA 92872, (828) 891-7990, e-mail: contact@johnstonearch.com. Website: www.johnstonearch.com. Contact Michael S. Johnstone, AIA. Golf course architect, expert witness and forensic study including: wrongful death, drowning, serious injury, errant balls, golf cart accidents & rollover, golf course design, safety, construction defects, irrigation damage, nets and barriers, property damage, slip and fall, premises liability. Golf courses, clubhouses, driving ranges, cart paths, neighboring property, and parking lots. 40 years architecture and construction management experience. 150+ accident investigations completed across the United States including: court testimony, deposition, site inspection, reports, graphic presentation, construction analysis, and replacement cost estimates.

HOSPICE/PALLIATIVE MEDICINE

HAMPION HEALTH, LTD™

JOHN H. FULLERTON, MD, MRO, CMD, CFP, FACP, AGSF, FFAHPM

1700 California Street, Suite 470, San Francisco, CA 94109, (415) 460-5532, fax (415) 376-5820, e-mail: fullertonmd@tttdtc.com. Website: hampionhealthtdt.com. Contact John H. Fullerton. Services available: Board Certified in Internal Medicine, Geriatrics, Hospice, Palliative Medicine, Addiction Medicine, and Home Health; Licensed Medical Review Officer. Expertise: Medicare fraud cases for the government, toxicology/DUI, elder abuse including criminal defense of lay caregivers accused of homicide of demented relatives during end-of-life phase, Hospital, ambulatory/outpatient, PI, medical malpractice, and LTC. Medical/hospice directorships. Testified over 200 times and reviewed more than 1,500 cases, including Medicare audits for the government. See display ad on page 43.

INSURANCE

ADVISORS/EXPERTS @ MCS ASSOCIATES

18881 Von Karman, Suite 1175, Irvine, CA 92612, (949) 263-8700, fax (949) 263-0770, e-mail: experts@mcsassociates.com. Website: www.mcsassociates.com. Contact Norman Katz, managing partner. Nationally recognized banking, insurance, insurance, and real estate consulting group (established 1973). Experienced litigation consultants/experts include senior bankers, lenders, consultants, economists, accountants, insurance underwriters/brokers. Specialties include: lending customs, practices, policies, in all types of lending (real estate, business/commercial, construction, consumer/credit card), banking operations/administration, trusts and investments, economic analysis and valuations/damages assessment, insurance claims, coverages and bad faith, real estate development, brokerage, appraisal, escrow, and title insurance.
Ages analysis, loss profit studies, business and intangible asset valuations, fraud investigations, statistics, forensic economic analysis, royalty audits, strategic and market assessments, competitive surveys, analysis of computerized data, injury and employment damages, and a wide range of other financial advisory services. Degrees: licenses: CPAs, CFAs, ASAs, PhDs, and MBAs in accounting, finance, economics, and related subjects. See display ad on back cover.

SMITH DICKSON, AN ACCOUNTANCY CORPORATION

18100 Von Karman Avenue, Suite 420, Irvine, CA 92612, (949) 553-1020, fax (949) 553-2429, e-mail: debbie.dickenson@smidthrick.com. Website: www.smithdickson.com. Contact Deborah Dickson, CPA. CPA 25+ years, testifying 15+ years, forensic accounting and litigation support. Superior Litigation Support services since 1995. The professionals at Smith Dickson clearly, independently, and accurately analyze financial information, calculate damages, evaluate claims, prepare expert reports and render expert testimony. Hundreds of hours of forensic accounting, deposition and trial experience. Damage calculations; lost profits; forensic accounting; expert testimony; Intellectual property; fraud & embezzlement; real estate; trust & estate beneficiary disputes, tax controversy; business valuations; business dissolution.

WHITE, ZUCKERMANN, WARAVSKY, LUNA & HUNT

15490 Ventura Boulevard, Suite 300, Sherman Oaks, CA 91403, (818) 981-4226, fax (818) 981-4278, 4 Park Plaza, 2nd Floor, Irvine, CA 92614, (949) 219-8616, fax (949) 219-5205, e-mail: expert@wzwh.com. Website: www.wzwh.com. Contact Barbara Luna. Expert witness testimony for complex litigation involving damage analyses of lost profits, unjust enrichment, reasonable royalties, lost earnings, lost value of business, forensic accounting, fraud investigation, investigative analysis of liability, and moral and contractual damage, and tax planning and preparation. Excellent communicators with extensive testimony experience. Prior Big Four accountants. Specialties include accountants, business contract, breach of fiduciary duty, business interruption, business dissolution, construction defects, delays, and cost overruns, fraud, insurance bad faith, intellectual property (including trade mark, patent, and copyright infringement, and trade secrets), malpractice, marital dissolution, personal injury, product liability, real estate, securities, tax planning and preparation, IRS audit defense, tracing, unfair advertising, unfair competition, valuation of businesses, and wrongful termination. See display ad on page 41.

INNTERAL MEDICINE

HAMPTON HEALTH, LTD™

JOHN H. FULLERTON, M.D., MRO, CMD, CFP, AGSF, FAAHPM

1700 California Street, Suite 470, San Francisco, CA 94109, (415) 450-5352, fax (415) 376-8200, e-mail: fullertonmd@hhdme.com. Website: hamptonhealthltd.com. Contact John H. Fullerton. Services available: Board Certified in Internal Medicine, Geriatrics, Hospice, Palliative Medicine, Addiction Medicine, and Home Health; Licensed Medical Review Officer. Expertise: Medicare fraud cases for the government, oxiegen/O2, elder abuse including criminal defense of lay caregivers accused of homicide of demented relatives during end-of-life phase. Hospital, ambulatory/outpatient, PI, medical malpractice, and LTC. Medical/hospice directorships. Testified over 200 times and reviewed more than 1,500 cases, including Medicare audits for the government. See display ad on page 43.

LEGAL MALPRACTICE

LAWRENCE H. JACOBSON, ESQ.


LITIGATION CONSULTING

NIGRO KARLIN SEGAL & FELDSTEIN, LLP

10860 Wilshire Boulevard, 5th Floor, Los Angeles, CA 90024, (310) 229-5161, fax (310) 229-4340, e-mail: Nachimson@nksf.com. Website: www.nksfb.com.

Contact Irwin Nachimson. I specialize in forensic accounting and litigation support projects. Our expertise includes contract dispute, fraud, family law, music, and expert testimony. I have over 26 years of experience and our entire department of 60 accountants is devoted exclusively to forensic projects.

NJP LITIGATION CONSULTING


Contact Lois Heaney. Jury consulting services including jury selection, mock trials and focus groups, survey research, venue evaluation, witness preparation, theme development and case presentation. Expert testimony experience on voir dire issues, venue and jury composition. More than 40 years of experience in state and federal civil and criminal cases.

LITIGATION SUPPORT

SQUAR & ASSOCIATES

2064 Philarce Court, Costa Mesa, CA 92626, (714) 825-0300, Cell (949) 375-4388, fax (866) 810-9223, e-mail: rsquar@squarassociates.com. Website: www.squarassociates.com. Contact Richard M. Squar. Squar & Associates provides superior litigation support and tax services, including expert witness testimony, strategy development, document discovery, deposition assistance, computation of damages, arbitration consulting, forensic accounting, rebuttal testimony, forensic accounting, and trial exhibit preparation. Our areas of expertise include loss of earnings analysis, breach of contract, partnership dissolution, reconstruction of accounting records, embezzlement and fraud, contract costs, lost profits, damage computations, and malpractice cases. Our practice focuses on closely held entrepreneurial firms in a wide variety of industries. See display ad on page 49.

LOSS CARE PLAN/LOSS EARNINGS

RGL FORENSICS

Orange County Office: 625 City Drive South, Suite 290, Orange, CA 92868, (714) 740-2100. Contact Hank Kahrs, hkahrs@rgl.com, Alan Lurie, alurie@rgl.com. San Diego Office: 11440 W Bernardo Court, Suite 300, San Diego, CA 92127, (619) 236-0377, Contact Rick Holstrom, rholstrom@rgl.com. RGL Forensics is an international firm of forensic financial experts exclusively dedicated to damage analysis, fraud investigation, and valuation. Serving the legal, insurance, and business communities for more than 30 years, the firm is unique in its ability to combine investigative accounting, business valuation, fraud, and forensic technology expertise. For attorneys, we discover and define financial value in transactions and civil and criminal disputes, and when necessary provide expert witness testimony in court and arbitration proceedings. For more information about RGL, please visit www.rgl.com.

MARKETING

DR. MICHAEL A. KAMINS - DRUCKER SCHOOL OF MANAGEMENT, CLAREMONT UNIVERSITY

6401 Warner Drive, Los Angeles CA 90048, (323) 988-9507, (323) 988-2471, fax (323) 901-0256, e-mail: michael.kamins@bc.edu. Servicess have offered include expert survey research/questionnaire design on Lanham Act issues of confusion, secondary meaning, and dilution. I have knowledge of consumer behavior, marketing strategy, and marketing research. I have worked on false
advertising cases and misappropriation of celebrity identity inclusive of cases involving President Trump (Trump University), Jay-Z, the rock group Boston, Taylor Swift, the University of Notre Dame (e.g., Day In Life, Settlement Brief, IME Evaluation), medical professionals who are board certified in orthopedic surgery. With over 30 consultant specialists, MRK provides expert witness services throughout California. Our consultants are dedicated to maintaining the highest standards of objective review and analysis of personal injury cases. MRK coordinates the scheduling and report process and has physicians available to help you determine your expert witness needs.

TASAMED (A DIVISION OF THE TASA GROUP, INC.)
Local, National and Global. Plaintiff/Defense. Civil Criminal. Contact Patricia Kelly, (800) 659-8464, fax (800) 850-8272, e-mail: TASAmEd@tasamed.net. Website: www.TASAmEd.com. Customized Expert and Consultant Referrals in all Medical Practice Areas! We refer a variety of specialties, experienced and experienced medical experts—including hard-to-find specialists—for case merit reviews, testimony at deposition or trial, research, IMEs, and more in 1,000+ medical fields. Our skilled referral advisors offer exceptional personal service to target your criteria, forward your resume for your review and help arrange your initial telephone screening interviews with experts. There is no charge unless you designate or engage an expert we refer. Visit our website and search expert profiles by expertise key word, order due diligence research reports on your expert witness or opposing counsel's, request an expert through our online form, and check out our e-Discovery and Cyber Security Solutions. Call now so that we can start saving you time! Save $175 (admin fee) on your first expert witness designation with Promo Code: LATM17. Be sure to check out our insert and display ad in this issue! Please see our insert in this section and display ad on page 30.

MEDICAL LEGAL
ROUGHAN & ASSOCIATES AT LINC, INC.
465 N. Halstead Street, Suite 120, Pasadena, CA 91107, (626) 351-0991, fax (626) 351-0992, e-mail: jan@linc.biz. Contact Jan Roughan. Specialties: Roughan and Associates at LINC is a case management and medical legal consulting firm. Services/products offered include: 1) Expert Testimony, 2) Life Care Plan (LCP) Construction/LCP Critique, 3) Medical Record Organization/Summarization/Analysis, 4) Reasonableness Analysis, 5) Expert Witness Identification, 6) IME Attendance, 7) Video Services (e.g., Day In Life, Settlement Brief, IME Evaluation, NDT/PT Evaluation, etc.), 8) Questions for: Deposition/Cross Examination, 9) Medical/Psychiatric Case Management. See display ad on page 30.

MEDICAL MALPRACTICE
HAMPION HEALTH, LTD™
JOHN H. FULLERTON, MD, MRO, CMD, CFP, AGSF, FAHAHP
1700 California Street, Suite 470, San Francisco, CA 94109, (415) 460-5532, fax (415) 376-5820, e-mail: fullertontn@hindmte.com. Website: www.hamptonhealthtd.com. Contact John H. Fullerton. Services available: Board Certified in Internal Medicine, Geriatrics, Hospice, Palliative Medicine, Addiction Medicine, and Home Health; Licensed Medical Review Officer. Expertise: Medicare fraud cases for the government, toxicology/DOI, elder abuse including criminal defense of lay caregivers accused of homicide of demented relatives during end-of-life phase. Hospital, ambulatory/outpatient, PI, medical malpractice, and LTC. Medical/hospice directorships. Testified over 200 times and reviewed more than 1,500 cases, including Medicare audits for the government. See display ad on page 43.

MRK MEDICAL CONSULTANTS
6555 Coyle Avenue, Suite 235, Cerrmichael, CA 95608, (800) 403-1647. Website: www.mrkmedconsultants.com. Contact Edward Younger, III, MD., Medical Director. Board certified in orthopedic surgery. With over 30 consultant specialists, MRK provides expert witness services throughout California. Our consultants are dedicated to maintaining the highest standards of objective review and analysis of personal injury cases. MRK coordinates the scheduling and report process and has physicians available to help you determine your expert witness needs.

MEDICAL/NEUROLOGY
CIMENT CONSULTANTS, LLC
14010 Majestic Court, Lake Oswego, OR 97035, (971) 235-1628, fax (503) 598-8746, e-mail: cimentconsultantsllc@gmail.com. Website: www.cimentconsultantsllc.com. Contact Gary Ciment, PhD. Medical reports, expert review of medical records and radiographs. Specializing in neurological issues involving the brain, spinal cord, brainstem plexus, as well as surgical issues as they relate to anatomy.

JONATHAN S. RUTCHIK, MD, MPH, FAAN, FACEOM
35 Miller Avenue, Suite 331, Mill Valley, CA 94941, (415) 381-3133, fax (415) 381-3131, e-mail: stutch@neoma.com. Website: www.neoma.com. Contact Jonathan S. Rutchik, MD, MPH, FAAN, FACEOM. One of the few physicians in the USA who is board certified in both Neurology and Occupational and Environmental Medicine. An Associate Professor at UCSF, he provides clinical evaluations and treatment, including electromyography, of individuals and populations with suspected neurological illness secondary to workplace injuries or chemical exposure. Services include medical record and utilization review and consulting to industrial, legal, government, pharmaceutical, and academic institutions on topics such as metals and solvents, pesticides, mold exposures, product liability, musculoskeletal, neurological fitness for duty in police, firefighter, DOT and safety sensitive positions as well as head injuries and neurological trauma. Offices in SF, Richmond, Petaluma, Sacramento, and Eureka/Arcata. Licensed in CA, NY, MA, NM and ID. See display ad on page 35.

MEDICAL/NEUROPSYCHOLOGY
MRK MEDICAL CONSULTANTS
6555 Coyle Avenue, Suite 235, Cerrmichael, CA 95608, (800) 403-1647. Website: www.mrkmedconsultants.com. Contact Edward Younger, III, MD., Medical Director. Board certified in orthopedic surgery. With over 30 consultant specialists, MRK provides expert witness services throughout California. Our consultants are dedicated to maintaining the highest standards of objective review and analysis of personal injury cases. MRK coordinates the scheduling and report process and has physicians available to help you determine your expert witness needs.

MEDICAL/PHYSICAL THERAPY
DR. JOYCE M. CAMPBELL, PHD, PT, EN
3336 Winlock Road, Torrance, CA 90505, (310) 539-3143, e-mail: jmcampbell116@aol.com. Over 40 years in physical therapy practice (incl. rehab and outpatient). Certified electrophysiology, professor of PT in DPT curriculum, peer review/expert consultant and witness since 1978 (both defense and plaintiff). Expertise/research: musculoskeletal, neuromuscular, peripheral and central nervous system disorders (CVA, TBI, SCI, CP, MS, peripheral neuropathy), botulinum toxin on nerve & muscle, and clinical applications of electrical stimulation.

MEDICAL/TOXICOLOGY
JONATHAN S. RUTCHIK, MD, MPH, FAAN, FACEOM
35 Miller Avenue, Suite 331, Mill Valley, CA 94941, (415) 381-3133, fax (415) 381-3131, e-mail: stutch@neoma.com. Website: www.neoma.com. Contact Jonathan S. Rutchik, MD, MPH, FAAN, FACEOM. One of the few physicians in the USA who is board certified in both Neurology and Occupational and Environmental Medicine. An Associate Professor at UCSF, he provides clinical evaluations and treatment, including electromyography, of individuals and populations with suspected neurological illness secondary to workplace injuries or chemical exposure. Services include medical record and utilization review and consulting to industrial, legal, government, pharmaceutical, and academic institutions on topics such as metals and solvents, pesticides, mold exposures, product liability, musculoskeletal, neurological fitness for duty in police, firefighter, DOT and safety sensitive positions as well as head injuries and neurological trauma. Offices in SF, Richmond, Petaluma, Sacramento, and Eureka/Arcata. Licensed in CA, NY, MA, NM and ID. See display ad on page 35.

MECHANICAL ENGINEERING
4X FORENSIC ENGINEERING LABORATORIES, INC.
5262 Oceanview Drive, Huntington Beach, CA 92649, (714) 450-8500, fax (714) 850-8699, e-mail: phill@4xforensic.com. Website: www.4xforensic.com. Contact Phil Van Herle. 4X Forensic Engineering Laboratories is a full-service forensic engineering laboratory. We provide expert witness and analytical and testing services in the following fields: fires and explosions; electrical and gas plant; defect investigations, thermal and fire modeling and lab testing; water; materials, corrosion, and failure analysis of plumbing products; failure analysis; metallurgy, process, surface analysis; accident reconstruction: automotive, trucks, construction equipment, and premises liability. See display ad on page 39.

MEDICAL
HAMPION HEALTH, LTD™
JOHN H. FULLERTON, MD, MRO, CMD, CFP, AGSF, FAHAHP
1700 California Street, Suite 470, San Francisco, CA 94109, (415) 460-5532, fax (415) 376-5820, e-mail: fullertontn@hindmte.com. Website: www.hamptonhealthtd.com. Contact John H. Fullerton. Services available: Board Certified in Internal Medicine, Geriatrics, Hospice, Palliative Medicine, Addiction Medicine, and Home Health; Licensed Medical Review Officer. Expertise: Medicare fraud cases for the government, toxicology/DOI, elder abuse including criminal defense of lay caregivers accused of homicide of demented relatives during end-of-life phase. Hospital, ambulatory/outpatient, PI, medical malpractice, and LTC. Medical/hospice directorships. Testified over 200 times and reviewed more than 1,500 cases, including Medicare audits for the government. See display ad on page 43.

MRK MEDICAL CONSULTANTS
6555 Coyle Avenue, Suite 235, Cerrmichael, CA 95608, (800) 403-1647. Website: www.mrkmedconsultants.com. Contact Edward Younger, III, MD., Medical Director. Board certified in orthopedic surgery. With over 30 consultant specialists, MRK provides expert witness services throughout California. Our consultants are dedicated to maintaining the highest standards of objective review and analysis of personal injury cases. MRK coordinates the scheduling and report process and has physicians available to help you determine your expert witness needs.
neurological fitness for duty in police, firefighter, DOT and safety sensitive positions as well as head injuries and neurological trauma. Offices in SF, Richmond, Petaluma, Sacramento, and Eureka/Arcata. Licensed in CA, NY, MA, NM and ID. See display ad on page 39.

METALLURGICAL AND CORROSION ENGINEER

4X FORENSIC ENGINEERING LABORATORIES, INC.

5262 Oceaneer Drive, Huntington Beach, CA 92649, (714) 450-8500, fax (714) 450-8599, e-mail: phil@4xforensic.com. Website: www.4xforensic.com.

Contact Phil Van Herle, 4X Forensic Engineering Laboratory is a full-service forensic engineering laboratory. We provide expert witness and analytical and testing services in the following areas: fires and explosions: electrical and gas product defect investigations, thermal and fire modeling and laboratory testing; water loss: materials, corrosion, and failure analysis of plumbing products; failure analysis: metallurgy, product testing, and computerized stress analysis; accident reconstruction: automotive, trucks, construction equipment, and premises liability. See display ad on page 39.

KARS’ ADVANCED MATERIALS, INC.

Testing and Research Labs, 2528 West Woodland Drive, Anaheim, CA 92801-2636, (714) 527-7100, fax (714) 527-7169, e-mail: info@karslab.com. Website: www.karslab.com.

Contact Dr. Ramesh Kar, Dr. Naresh Kar, Dr. Nikhil Kar. Southern California’s premier materials/mechanical/metallurgical/structural/forensics laboratory. Registered professional engineers with 30+ years in etalurgical/forensic/structural/mechani- cal failure analysis. Experienced with automotive, bicy- cles, tires, fire, paint, plumbing, corrosion, and structural failures. We work on both plaintiff and defendant cases. Complete in-house capabilities for tests. Extensive deposition and courtroom experience (civil and criminal investigations). Principals are Fellows of American Society for Metals and Fellows, American College of Forensic Examiners. See display ad on page 43.

METALLURGY

EAG, INC. (FORMERLY SEAL LABORATORIES)


Contact Dr. Arun Kumar at akumar@eag.com or Dr. Dana Medlin at dmedlin@eag.com. EAG performs metallurgical analysis and failure analysis investigations of various metallic and non-metallic products and components used in the aerospace, transportation, con- sumer products, construction and medical device industries. Additionally, we assist our clients with product design, materials selection, product improvement and quality assurance programs involving metallurgical issues. From routine metallurgical testing to complex consulting, EAG ensures the highest standard of quality for metallur- gical evaluations.

KARS’ ADVANCED MATERIALS, INC.

Testing and Research Labs, 2528 West Woodland Drive, Anaheim, CA 92801-2636, (714) 527-7100, fax (714) 527-7169, e-mail: info@karslab.com. Website: www.karslab.com.

Contact Dr. Ramesh Kar, Dr. Naresh Kar, Dr. Nikhil Kar. Southern California’s premier materials/mechanical/metallurgical/structural/forensics laboratory. Registered professional engineers with 30+ years in etalurgical/forensic/structural/mechani- cal failure analysis. Experienced with automotive, bicy- cles, tires, fire, paint, plumbing, corrosion, and structural failures. We work on both plaintiff and defendant cases. Complete in-house capabilities for tests. Extensive deposition and courtroom experience (civil and criminal investigations). Principals are Fellows of American Society for Metals and Fellows, American College of Forensic Examiners. See display ad on page 43.

Zivetz, Schwartz & Saltmans CPA’s

With more than thirty years of experience as expert witnesses in testimony, pre-trial preparation, settlement negotiations, consultations and court appointed special master.

Some of our specialties consist of:

- Forensic Accounting - Marital Dissolutions
- Business Valuation and Appraisal - Lost Profits
- Economic Damages - Accounting Malpractice
- Employee Benefit Plans - Entertainment Entities
- Financial and Economic Analysis - Shareholder Disputes
- Wrongful Termination

Tel: (310) 826-1040
Fax: (310) 826-1065
E-mail: less@zss.com
www.zsscpa.com
1190 W. Olympic Blvd.
Suite 600
Los Angeles, CA 90064-1046

Lester J. Schwartz, CPA, CFF, DBFA, DBFE
Michael D. Saltman, CPA, MBA
Lynda R. Schauer, CPA, CVA, CGMA
David L. Baer, CPA
Dave Dichter, CPA, ABV
Sandy Gees, CPA
Siloa Hikobayan, CPA
Troy Hoang, CPA
MeteOROLOGY
AIR, WEATHER, AND SEA CONDITIONS, INC.
P.O. Box 512, Pacific Palisades, CA 90272, (818) 646-8632, fax (818) 646-6530, e-mail: airweather@aol.com. Website: www.weatherman.org. Contact Jay Rosenthal, AMS Certified Consulting Meteorologist (CCM). Experienced and authorized expert testimony, reports and analyses of wind, rain, storms, fog, ice, lighting, atmospheric conditions, flooding, waves, specialist in wildfires, ice, dust, auto/boat/ship/aircraft accident recondition, property damage, slip and fall, construction, mold issues, homeland security applications, air pollution, transport, and risk identification. Movie industry applications and special effects. Determining unusualness, normality, and foreseeability. Official data, site visits, clear and convincing testimony. See display ad on page 36.

ORTHOPEDIC SURGEON
MRK MEDICAL CONSULTANTS
6555 Coyle Avenue, Suite 235, Camarillo, CA 93010, (805) 431-1637, Website: www.mrkmcd.com. Contact Edward Younger, III, MD., Medical Director. Board certified in orthopedic surgery. With over 30 consultant specialists, MRK provides expert witness services throughout California. Our consultants are dedicated to maintaining the highest standards of objective review and analysis of personal injury cases. MRK coordinates the scheduling and report process and has physicians available to help you determine your expert witness needs.

RICHARD C. ROSENBERG, MD
BOARD CERTIFIED ORTHOPEDIC SURGERY

WILLIAM B. STETSON, MD
191 South Buena Vista Street, Suite 470, Burbank, CA 91505, (818) 848-3030, fax (818) 848-2221, e-mail: drstetson@stetsonpowell.com. Website: www.stetsonpowell.com. Expert witness testimony for complex litigation involving damage analyses of lost profits, unjust enrichment, reasonable royalties, lost earnings, loss of value, forensic accounting, fraud investigation, investigative analysis of liability, and market disruption, and tax planning and preparation. Excellent communicators with extensive testimony experience. Prior Big Four accountants. Specialties include accounting, breach of contract, breach of fiduciary duty, business interruption, business dissolution, construction defects, delays, and cost overruns, fraud, insurance bad faith, intellectual property (including trade-mark, patent, and copyright infringement, and trade secrets), malpractice, personal injury, product liability, real estate, securities, tax planning and preparation, IRS audit defense, tracing, unfair advertising, unfair competition, valuation of businesses, and wrongful termination. See display ad on page 41.

ZIVETZ, SCHWARTZ & SALTSMAN, CPAS

PLASTIC AND COSMETIC RECONSTRUCTIVE SURGERY
BRENT MOELLEKEN, MD, FACS
Beverly Hills office, 120 South Spalding Drive, Suite 110, Beverly Hills, CA 90212, (310) 273-1001, fax (310) 205-4881, Santa Barbara office, 601 East Anacapa Street, Suite 103, Santa Barbara, CA 93103, (805) 798-0939. Website: www.obbrent.com. Contact Penny, IME, deposition, trial experience, medical record review, plastic and reconstruction surgery, accident reconstructions, microsurgical nerve repairs, dog bite reconstructions, and laser scar services. Associate Clinical Professor of Surgery, UCLA Division of Plastic Surgery.

PLASTIC SURGERY/ccm SPECIALIST
JEFFREY L. ROSENBERG, MD

PLASTICS
KARS’ ADVANCED MATERIALS, INC.
Testing and Research Labs, 2528 West Woodland Drive, Anaheim, CA 92801-2636, (714) 527-1100, fax (714) 527-1169, e-mail: info@karslab.com. Website: www.karslab.com. Contact Dr. Ramesh Kar, Dr. Naresh Kar, Dr. Nicholas Kar. Southern California’s premier materials/mechanical/thermal/structural/forensics consultancy. Registered professional engineer with 30+ years in metallurgical/forensic/structural/mechanical failure analysis. Experienced with automotive, bicycles, tires, fire, paint, plumbing, corrosion, and structural failures. We work on both plaintiff and defendant cases. Complete in-house capabilities for tests. Extensive deposition and courtroom experience (civil and criminal investigations). Principals are Fellows of American Society for Metals and Fellows, American College of Forensic Examiners. See display ad on this page 43.

PLUMBING
4X FORENSIC ENGINEERING LABORATORIES, INC.
5882 Oceanus Drive, Huntington Beach, CA 92649, (714) 450-8500, fax (714) 450-8599, e-mail: phil@4xforensic.com. Website: www.4xforensic.com. Contact Phil Van Herle, 4X Forensic Engineering Laboratories is a full-service forensic engineering laboratory. We provide expert witness and analytical and testing services in the following areas: fires and explosions: electrical and gas product defect investigations, thermal and fire modeling and laboratory testing; water loss: materials, corrosion, and failure analysis of plumbing products; failure analysis: metalurgy, product testing, and computerized stress analysis; accident reconstruction: automotive, trucks, construction equipment, and premises liability. See display ad on page 39.

PODIATURE—FOOT SPECIALIST
STEVEN L. ROSENBERG, DPM

POLYGRAPH
Jack Trimarco & Associates Polygraph Inc.
9454 Wilshire Boulevard, 6th Floor, Beverly Hills, CA 90212, (310) 247-2637, e-mail: jack@jacktrimarco.com. Website: www.jacktrimarco.com. Contact Jack Trimarco. Former manager of the Federal Bureau of Investigation’s polygraph program in Los Angeles. Former Inspector General Polygraph Program—Department of Energy. Nationally known and respected polygraph expert. I have the credentials you would want when you have a client polygraphed; a case reviewed, or a motion made regarding polygraph. My unique back-ground allows me to bring the highest levels of objective and expertise to any polygraph situation. Current member of the Ethics Committee, California Association of Polygraph Examiners (CAPE). Hundreds of appearances on national TV, including Dr. Phil, Oprah, Greta, Nancy Grace, O’Reilly Factor, and CNN. Web site: www.jacktrimarco.com. Degrees/licensers: BS Psychology, Certified APA, AAP, CAPE, AAFF. See display ad on page 9.

PSYCHIATRY
Maria T. Lymbieris, MD, Inc.
1500 Montana Avenue, Suite 201, Santa Monica, CA 90403, (310) 451-3152, e-mail: maria@lymbieris.com. Website: www.lymbieris.com.
Contact Maria T. Lymberis, MD. Clinical Professor of Psychiatry, UCLA School of Medicine. Board Certified in adult, child/adolescent psychiatry, expert consultant Medical Board of California, forensic expert for psychiatric malpractice, sexual harassment, posttraumatic stress cases, and divorce/child custody and psychiatric evaluations for: fitness for duty and competency to stand trial.

PSYCHOLOGY/PSYCHOLOGICAL ASSESSMENT

JUDY HO, PHD, ABPP, CFMHE LICENSED CLINICAL PSYCHOLOGIST
Tenured Associate Professor at Pepperdine University; Diplomate, American Board of Professional Psychology; Diplomate, National Board of Forensic Evaluators. Office: 1600 Rosecrans Avenue, Media Center 4th Floor, Manhattan Beach, CA 90266. (310) 745-8887. Email: drjudyho@gmail.com. Website: www.drjudyho.com. Dr. Ho provides forensic and neuropsychological evaluations used in legal settings to document a wide variety of psychologically relevant information, including neuropsychological, IME, and forensic evaluations for civil & criminal cases including personal injury, fitness for duty, discrimination, sexual assault and trauma, professional licensing disputes, and assessment of psychological state/functioning at time of criminal offense. Dr. Ho is a member of the International Neuropsychological Society National Academy of Neuropsychology, and Division 40 (Soc. for Clin Neuropsych) and 41 (American Psych-Law Soc.) of the American Psychological Association. A list of her retained cases are available upon request. She provides expert testimony regarding psychological testing methods, results, and conclusions. Dr. Ho is a diplomate of two specialty boards, a two-time recipient of the National Institute of Mental Health National Services Research Award, and the current chair of the Institutional Review Board at Pepperdine University. She conducts clinical and community research on mental health, publishes empirical studies and book chapters, and is a frequent invited speaker at various national and local conferences and media outlets.

REAL ESTATE ADVISORS/EXPERTS @ MCS ASSOCIATES
18881 Von Karman, Suite 1175, Irvine, CA 92612, (949) 263-8700, fax (949) 263-0770, e-mail: experts@mcsassociates.com. Website: www.mcsassociates.com. Contact Norman Katz, managing partner. Nationally recognized banking, finance, insurance, and real estate consulting group (established 1973). Experienced litigation consultants/experts include senior bankers, lenders, consultants, economists, accountants, insurance underwriters/brokers. Specialties include: lending customs, practices, policies, in all types of lending (real estate, business/commercial, construction, consumer/credit card), banking operations/administration, trusts and investments, economic analysis and valuations/damages assessment, insurance claims, coverages and bad faith, real estate development, brokerage, appraisal, escrow, and title insurance.

CANTERBURY LAW GROUP
14300 North Northsight Boulevard, Suite 129, Scottsdale, AZ 85260, (480) 240-0040, fax (480) 656-5966, e-mail: ccherney@clgaz.com. Website: www.craigcherney.com. Contact Craig Cherney. Real estate expert witness in land acquisition, professional land management, land entitlements, zoning, due diligence, title policies, closings, fiduciary duties of loyalty, diligence and full disclosure, run pro forma analyses, joint venture and land manager expert. Expert in fiduciary standards of care when managing third party real estate capital toward the highest and best use of land whether vacant, entitled, partially improved, or fully improved.

CASTLEYONS CORPORATION
Forty-five years in the entitlement, development and homebuilding industry. Areas of expertise: partnership disputes, industry customs/practices, standard of care issues, brokerage complaints and fraud/misconduct.
REAL ESTATE EXPERT WITNESS—RODINO ASSOCIATES
11661 San Vicente Boulevard, Suite 306, Los Angeles, CA 90049, (310) 614-2193, e-mail: bobrodino@aol.com. Website: www.RodinoAssociates.com. Contact Robert J. Rodino, PhD. Expert witness report preparation, deposition, and trial for all major property types, for multi-family residential, retail, office and light industrial, acquisition & disposition, development, management, leasing, investment analysis, brokerage, and market research.

THE REYNOLDS GROUP
P.O. Box 1996, Tustin, CA 92781-1996, (714) 730-5397, fax (714)730-6476, e-mail: dreymonds@reymonds-group.com. Website: www.reynolds-group.com. Contact Ed Reynolds, RCE, Principal. An environmental consulting, and contracting firm. Expertise: environmental contamination, assessment, remediation, reasonable value of construction, standard of care, and related financial matters. Degrees in Civil Engineering: USC (BS), University of Houston (MS), (MBA) Harvard. California Registered Civil Engineer, Licensed A, B, HAZ California Contractor. 30 years’ experience. Adjunct Faculty Member USC Viterbi School of Engineering Department of Civil and Environmental Engineering.

WARONZOF ASSOCIATES, INC.
400 Continental Boulevard, Sixth Floor, El Segundo, CA 90245, (510) 657-7444, fax (424) 285-5383. Website: www.waronzof.com. Contact Timothy R. Lowe, MAI, CRE. Waronzof provides real estate and land use litigation support services including economic damages, lost profits, financial feasibility, lease dispute, property value, enterprise value, partnership interest and closely held share value, fair compensation, lender liability, and reorganization plan feasibility. Professional staff of five with advanced degrees and training in real estate, finance, urban planning, and accounting. See display ad on page 43.

REAL ESTATE—PROPERTY MANAGEMENT
E. ROBERT MILLER & ASSOCIATES
330 Primrose Road, Suite 606, Burlingame, CA 94010, (650) 373-0705, fax (650) 373-0709, e-mail: ejmiller@hotmail.com. Website: www.ebrotemiller.com. Contact E. Robert Miller. Specialties: expert witness in property management for all types of commercial and residential real estate. Experience in arbitration, litigation, lease terms, personal injury, property damage, security, industry standards of care, and due diligence. Retained as an expert witness consultant in more than 1,000 lawsuits.

E. ROBERT MILLER & ASSOCIATES
330 Primrose Road, Suite 606, Burlingame, CA 94010, (650) 373-0705, fax (650) 373-0709, e-mail: ejmiller@hotmail.com. Website: www.ebrotemiller.com. Contact E. Robert Miller. Specialties: expert witness in property management for all types of commercial and residential real estate. Experience in arbitration, litigation, lease terms, personal injury, property damage, security, industry standards of care, and due diligence. Retained as an expert witness consultant in more than 1,000 lawsuits.

SAFETY
KGA, INC.

SCS ENGINEERS
3900 Kliroy Airport Way, Suite 100, Long Beach, CA 90806, (562) 426-9544, fax (562) 427-0065, e-mail: jruno@scsengineers.com. Website: www.scsengineers.com. Contact Julio Nuno, VP. SCS provides expert witness services related to environmental studies and engineering, water resources, solid waste and air quality and industrial hygiene and safety services. We are a 46-year-old consulting firm with 68 offices across the US and nearly 600 employees. Our Long Beach office has more than 30 professional engineers, scientists, and subject matter experts available on short notice to serve asbestos, lead-based paint, and other specialty areas requiring expert witness services.

SECURITIES
CORNERSTONE RESEARCH
633 West Fifth Street, 31st Floor, Los Angeles, CA 90071-2005, (213) 553-2500, fax (213) 553-2599. Website: www.cornerstoneresearch.com. Contact Grace G. Strong, Jr., Richard W. Dalbeck, Katie J. Galley, Elaine Harwood, Caryln Irwin, Pierrick Morel, or Ashish Pradhan. For more than 25 years, Cornerstone Research staff have provided economic and financial analysis in all phases of complex commercial regulatory proceedings. We work with a broad network of testifying experts, including prominent faculty and industry practitioners, in a distinctive collaboration. The experts with whom we work bring the specialized expertise required to meet the demands of each assignment. Our areas of specialization include intellectual property, antitrust, securities, entertainment, real estate, financial institutions, and general business litigation.

SERVICE STATIONS
THE REYNOLDS GROUP
P.O. Box 1996, Tustin, CA 92781-1996, (714) 730-5397, fax (714)730-6476, e-mail: dreymonds@reymonds-group.com. Website: www.reynolds-group.com. Contact Ed Reynolds, RCE, Principal. An environmental consulting, and contracting firm. Expertise: environmental contamination, assessment, remediation, reasonable value of construction, standard of care, and related financial matters. Degrees in Civil Engineering: USC (BS), University of Houston (MS), (MBA) Harvard. California Registered Civil Engineer, Licensed A, B, HAZ California Contractor. 30 years’ experience. Adjunct Faculty Member USC Viterbi School of Engineering Department of Civil and Environmental Engineering.

SPOUSAL EVALUATIONS/ DISSOLUTION CASES
CALIFORNIA CAREER SERVICES
8727 West Third Street, Suite 204, Los Angeles, CA 90048, (310) 550-6047, fax (310) 550-6053 e-mail: susan@californiacareerservices.com. Website: www.californiacareerservices.com. Contact Susan Wise Miller, MA, Career Counselor/Vocational Expert specializing in divorce cases. Conducts vocational examinations, labor market research, writes reports and testifies on employability and earning capacity issues.

MRK MEDICAL CONSULTANTS
6555 Cotee Avenue, Suite 235, Cerritos, CA 90703-5808, (562) 403-1647. Website: www.mrkmedconsultants.com. Contact Edward Younger, III, MD., Medical Director. Board certified in orthopedic surgery. With over 30 consultant specialists, MRK provides expert witness services throughout California. Our consultants are dedi-
California DREAMing: A Nationwide Injunction Saves DACA

THE NINTH CIRCUIT WILL DECIDE the validity of the Obama Administration’s Deferred Action on Childhood Arrivals (DACA) program and whether President Trump’s rescission, without notice, on September 7, 2017, withstands due process and equal protection challenges. In a two-sentence unsigned opinion in Department of Homeland Security v. Regents of the University of California, the Supreme Court denied without prejudice the government’s petition for certiorari, asserting the assumption that the “Court of Appeals will proceed expeditiously to decide this case.”1 The nationwide injunction remains in force, requiring the Department of Homeland Security (DHS) to maintain the DACA program as it existed prior to rescission and to allow existing enrollees to renew in DACA until the case concludes.

DACA’s deferred deportation program is the 2012 presidential phoenix rising from the ashes of Congress’s failure to pass the Development Relief and Education for Alien Minors (DREAM) Act in 2007 and again in 2011. The DREAM Act would have provided a path to legal status for undocumented youth who had no choice in their parents’ decision to immigrate illegally and raise them as Americans. Dubbed DREAMers, they often discover the devastating truth about their illegal status when they embark on one or more teenage rites of passage to independence, such as applying for a driver’s license, a job, or college admission. DACA promised protection from deportation and authorization to work, join the military, or attend college to those who divulged extensive personal information and abided by the law.

It is estimated nearly a third of the 800,000 DACA recipients are California DREAMers,2 and California fiercely defends the DACA dream. In an August 24, 2017, letter, Governor Jerry Brown urged President Trump not only to maintain DACA but also to find “a more permanent solution,” characterizing DACA’s rescission as cruel and counter to our nation’s ideals, because “to uproot these young people from the only country they have known as home is to turn our back on the future.” Later, in Machiavellian manner, President Trump both rescinded and claimed support for the DACA program, delaying formal deportation of DREAMers through March 5, 2018, ostensibly giving Congress time to enact a statutory solution. The Senate’s failure to pass any of the four immigration bills debated before the president’s deadline dashed the dream of a bipartisan legislative solution.

Attorney General Xavier Becerra’s litigation in California, however, is keeping the DACA dream alive. The Regent plaintiffs allege rescission will cause California significant losses, including intellectual capital and productivity, the economies of a prepared workforce, tax revenues, and profound consequences for professionals in law, medicine, education, and psychology who applied for DACA relying on the government’s promise that detailed information they revealed to qualify would not be used to remove them.

In two decisions rendered respectively on January 9 and January 12, 2018, Judge William Alsup upheld and dismissed certain of the plaintiff’s DACA claims. In Regents I, the court rejected the government’s argument that DACA’s rescission is a discretionary action by DHS barred from judicial review under the Administrative Procedure Act and the Immigration and Naturalization Act, noting that the rationale for the government’s ending of DACA was its supposed illegality, and that “determining illegality is a quintessential role of the courts.”3 The DACA program is not an illegal exercise of executive authority because programmatic deferred action has a lengthy history of validity. Therefore, plaintiffs likely would establish that the rescission was based on a flawed premise of illegality and must be set aside as arbitrary, capricious, an abuse of discretion, or not otherwise in accordance with the law.

In Regents II, the court empathized with DACA recipients, who changed their lives because of the expectation that DACA’s benefits would be available to them if they abided by the rules, but concluded the expectation does not constitute a constitutional challenge under the Fifth Amendment. Allegations about changes to the government’s information-use policy, however, state a valid due process claim. DHS changed its policy with respect to the extensive personal information provided by DACA recipients, and DACA applicants relied on the government’s promise that the shared personal information provided to apply and meet the program’s requirements would not be used for immigration purposes absent specific circumstances. The “government’s broken promise as to how DACA recipients’ personal information will be used—and its potentially profound consequences—shock[s] the conscience and offend[s] the community’s sense of fair play.”4

Equal protection clause allegations, if true, prove rescission impacts Latinos and Mexican Nationals disproportionately since they comprise 93 percent of all DACA recipients.5 The history of bias leading up to rescission, demonstrated through campaign and other public statements by President Trump in which he expressed racial animus towards Latinos and Mexicans, constitutes circumstantial evidence of intent and raises the inference that “racial animus towards Latinos and Mexicans is a motivating factor in the decision to end DACA.”6 Ultimately, the Supreme Court will decide DACA’s fate and whether California’s dream comes true.

Mary E. Kelly is chair of the American Bar Association’s National Conference of Administrative Law Judges, and past chair of Los Angeles Lawyer’s Editorial Board.

References:
1 Homeland Sec. v. Regents of Univ. of Cal., No. 17-1003, 2018 U.S. LEXIS 1508 (Feb. 26, 2018).
5 See id.; see also Hipsman, supra note 2, at 6.
6 Regents II, 2018 LEXIS 6141 at 34.
EASY FOR YOUR CLIENTS, A NO-BRAINER FOR YOUR FIRM.

LawPay
AN AFFINITIPAY SOLUTION

THE PREFERRED CHOICE
For more than a decade, LawPay has been the go-to solution for the legal industry. Our simple online payment solution helps lawyers get paid faster. LawPay lets you attach a secure payment link to your email, website, or invoices so that clients can pay with just a click. Our solution was developed specifically for law firms, so earned and unearned fees are properly separated and your IOLTA is always protected from any third-party debiting. Simply put, no online payment processor has more experience helping lawyers than LawPay.

SECURE credit card processing for law firms
IOLTA COMPLIANT
Approved Member Benefit of 47 STATE BARS
Trusted by over 50,000 lawyers
Powering payments for 30+ TOP PRACTICE MANAGEMENT SOLUTIONS

LACBA Bar-Approved Member Benefit

Contact our legal payment experts at 866-730-9212 or visit lawpay.com/lacba
An elaborate analysis that only experts understand will do you little good. We never forget that everyone who matters must see why our conclusion is correct.

Financial Complexity Made Clear

We deliver better results through:

- Persuasive visual presentations which follow our proven methodology
- Eliminating costly details that do not alter final results
- Experience-directed analysis that delivers right answers the first time
- Thoughtful conclusions based on facts & research
- Depth of resources to deliver on near-term deadlines

Call us when you need:

- Damage analyses & related testimony
- Business and asset valuations
- Economic & market studies
- Fraud & other investigations
- Forensic accounting & audits
- Statistics & economic modeling

(213) 787-4100
fulcrum.com