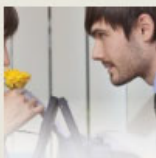


Sex, Love and Payroll: Employers Face Tricky Issues With Workplace Romances

In 2003, 47% of survey respondents admitted to having an office romance, according to Vault.com's 2003 Office



News & Updates

[A Budget That Could Cause a Broken Heart](#)

The Superior Court has faced challenging times. Our court operations budget has been permanently cut from \$63 million to \$54.6 million, a 13.3% budget reduction since FY 2008-09. Most of those cuts have come in the way of staff reductions. In FY 2008-09 the court had 440 employees. Over the past three fiscal years, a total

Spotlight

[Life, Love, Law & the Practice of All](#)

"A long marriage is two people trying to dance a duet and two solos at the same time". ~ Anne Taylor Fleming

Contra Costa Lawyer Online

February 2012

Love & the Law

Contra Costa Lawyer Online

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‘Til Death Do Us Part: Cutting-Edge Concepts and Legal Tools for Helping Couples “Age In Place”

Wednesday, February 1, 2012



Virginia M. George

While the numbers of elderly couples are growing exponentially, new options exist for them to successfully ‘age in place’ and avoid the negative impact of moving out of their homes. This article will focus on the concept and practicality of elder villages as well as several legal tools to assist senior couples as they make the important decision of whether to move out of their residence and on to more institutionalized settings.

According to the United States Census¹, there will be a spike in the age 60+ population from 43,043,000 in 2005 to 73,769,000 in 2020, an increase of

¹<http://www.census.gov/prod/2010pubs/p25-1138.pdf>

71 percent. California is projected to be one of the fastest growing states in the nation in total population. In California, the elderly population is expected to grow more than twice as fast as the total national population and this growth will vary by region.

The elderly age group (age 60-84) in California will have an overall increase of 112 percent from 1990 to 2020. More than half the counties will have over a 100 percent increase in this age group. Eleven of these counties will have growth rates of over 150 percent. The influence of the 60 and over age group on California is expected to emerge most strongly between 2000 to 2020.

The oldest old-age group (age 85+) will increase at even a faster rate, having an overall increase of 143 percent from 1990 to 2020. Of California's 58 counties, 38 will have increases of more than 150 percent, 26 will have increases of more than 200 percent, and 11 will have over a 300 percent increase in the number of persons aged 85 and older. Of these 11 counties, all but one are located in the central and northern areas of the State. Counties can expect to experience even higher growth rates after 2020. In particular, the influence of the 85 and over age group on California will emerge most strongly between 2030 to 2040 as the first of the baby boomers reach 85 years of age.

With these staggering statistics, demographers project that by 2050 one in five Americans will be age 65 or older, part of what has been called a "*silver tsunami*."²

Whether single, married, or life partners, the elderly face increasingly difficult decisions as they age, not the least of which is where to live as the years progress. One of the most difficult decisions entails whether to leave the home, and in couples' cases, whether the couple should split up (not necessarily by choice, but by necessity due to medical, care and/or living circumstances.)

As senior couples confront care-giving decisions, the couples' desire to continue to live together is a huge challenge. Most senior couples prefer to continue living together at home. But when one spouse is in need of extra help, it places the healthier spouse in a care-giving role. While remaining at home may be the goal for the majority of couples, doing so without the

²<http://www.agingresearch.org/content/article/detail/826/>

right support can result in negative and clearly unintended consequences for both elderly partners.

“Aging in place” is a concept that addresses the reality that an overwhelming majority of older Americans want to remain in their homes for as long as possible. There are many positive aspects of aging in place, which include keeping elderly couples together, maintaining social networks and routines, continuing the sense of independence desired by elders, and ensuring physical as well as psychological comfort.

Elder Villages: A Viable Option

Within the past few years, elder “villages” have emerged as a realistic and successful way to handle a multitude of issues, including legal concerns, that arise as seniors age. The volunteer-driven, primarily non-profit networks are meant to help seniors continue to live in their homes by delivering a multitude of services they are no longer able to do for themselves and to help seniors stay actively engaged through social events. What started with the first village in 2001 in Boston (Beacon Hill Village³) has become a fast-growing phenomenon that has huge potential to fill a crucial gap for care, housing and legal services as baby boomers age and longevity increases.

As non-profit organizations, these villages are operated by board members and/or volunteers. Most members pay annual dues generally ranging from \$35 to more than \$900, depending on the village structure. The idea is to provide senior couples and individuals the capability to remain in their homes, rather than splitting them up or moving them out to more institutionalized settings. Members are provided assistance with medical, home maintenance, daily activities, legal concerns and transportation issues. Vendors usually offer lower rates for their services in exchange for the loyalty and repeat business derived from village residents.

Elder villages, seen as the way of the future, serve a large population falling in a wide gap in care for aging Americans. Medicaid covers nursing homes and some in-home care for lower-income seniors while the wealthy can afford costly assisted-living facilities or hired help. For the middle- to upper middle-class, however, there remains a huge un-served need.

³<http://beaconhillvillage.org/>

In the Bay Area, Ashby Village in Berkeley⁴ was launched in 2010. It is now one of 65 senior villages in the United States with an estimated 120 more in the planning stages. Ashby Village now has 170 members, with 95 percent of its members renewing for this year. Senior villages have been such a success that the Archstone Foundation⁵ has funded a three-year evaluation for UC Berkeley researchers to determine the qualities that are most likely to ensure the long-term viability of non-profit villages.

Finally, the elder village movement is catching on fast. With the economic crisis draining retirement accounts and impacting home values (that many seniors expected to fall back on if they needed residential care) along with the huge percentage of seniors expressing a preference for remaining at home as long as possible, low-cost, self-help models like senior villages continue to gain momentum as a practical, compassionate and successful option for the elderly to age in place.

Legal Tools Available

Additionally, several standard but important legal tools should not be overlooked when working with elderly couples who wish to age in place.

Powers of Attorney: Known by various labels, the most common of which are Durable Powers of Attorney for Financial Issues and Advance Health Care Directives for Medical Issues, couples and legal practitioners should not only confirm these documents are validly in place, but also that they express the *current* wishes of the elder. All too often, people fail to review and revisit these documents after they have been prepared and time has passed; not only do preferences in who the agents are to make such decisions change, important issues, such as life-support and organ donation, may need to be modified over time. Consistent periodic review and/or revision is a must.

Title to Residential and Other Real Property: Confirm that title to all real properties, particularly the primary residence, is accurate and up-to-date. Oftentimes, parties fail to put their homes back into correct legal title from which it came, such as in a revocable trust, after refinancing a home. Some parties who use commercial agencies to write their trusts fail

⁴<http://ashbyvillage.org/>

⁵<http://www.archstone.org/>

to correctly title their homes after the trust is complete, which can cause moderate to severe problems in the future. Checking the title of real property is critical so that fraudulent real estate transactions can be avoided and, if present, quickly addressed.

Reverse Mortgages for Seniors: A reverse mortgage is a special type of home loan that allows homeowners to convert a portion of the equity in their home to cash. The equity built up over years of making mortgage payments may be paid to the senior homeowner to give greater financial security, supplement social security income, or make home improvements to assist senior homeowners as they age in place. Generally, unlike a traditional home equity loan or second mortgage, borrowers do not have to repay the loan until the borrowers no longer use the home as their principal residence or fail to meet the obligations of the mortgage. If used in the correct manner, reverse mortgages can be a viable option for older Americans to age in their homes. However, anyone considering such an option should be acutely aware of scam artists that exist and prey upon elders who are seeking such loans in good faith. Seniors or clients interested in this option should consult the website for the U. S. Department of Housing and Urban Development at the following address: <http://hud.gov/buying/rvrsmort.cfm>. Be aware also that HUD offers *free* HUD-approved housing counselors services to seniors considering reverse mortgages. If considering such an option, potential borrowers should never sign without first having an opportunity to review the document with either a HUD counselor, a qualified legal professional or both.

Sex, Love and Payroll: Employers Face Tricky Issues With Workplace Romances

Wednesday, February 1, 2012



James Wu

In 2003, 47% of survey respondents admitted to having an office romance, according to Vault.com's 2003 Office Romance Survey⁶. Eight years later, in Vault.com's 2011 Survey⁷, the percentage increased to 59%. It is no wonder that workplace romances thrive and seem to be increasing. Workers in all types of jobs spend most of their waking moments at work, developing professional and personal relationships with their colleagues. Often, co-workers share similar education and income levels, intellectual interests, and they commiserate over the same workplace stresses. Through these and other connections, relationships between co-workers can quickly evolve from platonic to romantic.

Certainly, many employees worry about their jobs and what a workplace romance might do to their job security and relationships with other co-

⁶<http://www.vault.com/articles/Vault's-Office-Romance-Survey--2003-16513021.html>

⁷<http://blogs.vault.com/blog/workplace-issues/2011-office-romance-survey-results/>

workers. Similarly, employers worry that workplace romances will harm the work environment, lead to low morale, dissention, and lawsuits for sexual harassment. With Valentine's Day quickly approaching, here are some issues for employers to consider when addressing workplace romances.

Do Not Attempt to Prohibit All Workplace Romances

As much as an employer might like to, attempting to establish a complete ban on workplace romances is not a good idea for a number of reasons. First, it will likely be difficult, if not impossible, to enforce such non-fraternization policies. In addition, by having a policy prohibiting all workplace romances, employees may feel they must hide from and deceive their supervisors and co-workers. This type of "us versus them" mentality is the last thing employers want to foster. Second, when workplace romances do not interfere with an employee's work performance, and do not otherwise cause any disruption to the workplace, employers can do very little to prohibit these consensual relationships. This is so, because, at least in part, the California Constitution protects employees' right to privacy, and California Labor Code Section 96(k)⁸ explicitly protects "lawful conduct occurring during nonworking hours away from the employer's premises." Thus, to the extent the actions of the romantic couple do not affect the workplace, employers are unable to prohibit these relationships.

Create and Enforce Policies That Make Sense

Employers, however, are not completely powerless. For example, they can adopt a policy restricting relationships that create actual or potential conflicts of interest, and informed consent policies/love contracts.

Conflicts of Interest

The most common type of conflict of interest arises when a manager/supervisor is in a relationship with a subordinate. Employers have legitimate concerns that such relationships may jeopardize business judgment, lead to breached confidentiality, and reveal a lack of judgment by the supervisor. Furthermore, such a relationship may be perceived by other employees to foster inappropriate favoritism and may lead to claims of *quid pro quo* or hostile environment sexual harassment. As a result, businesses

⁸<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=lab&group=00001-01000&file=79-107>

should consider a policy prohibiting relationships between supervisor and subordinate, particularly when the two employees are in the same “chain of command.” This policy may also require the dating employees disclose relationships that may create a conflict of interest, and the policy should make clear that the employer may take appropriate action to eliminate any conflict of interest (such as transferring one of the employees, if possible). Note, however, that employers should be ready to articulate a business justification for such a transfer in order to lessen the chance of a discrimination claim. At least one California appellate court has enforced an employer’s conflict of interest policy prohibiting supervisor-subordinate romances. In *Barbee v. Household Automotive Finance Corp.*⁹(2003) 113 Cal. App.4th 525, the Court found that a supervisor’s failure to notify his employer of a relationship in violation of the conflict of interest policy was not protected by the California Constitution or the Labor Code. The Court found that the employer had a legitimate interest in avoiding the conflict of interest and that because the supervisor knew his relationship violated the applicable policy, he had a lower expectation of privacy.

Informed Consent/Love Contracts

Though the legal effect of love contracts is unclear in California courts, they may provide some protection to an employer should the workplace romance result in unwelcome behavior. Informed consent policies and love contracts typically require that each party to the relationship confirm that the relationship is consensual, that the relationship will not interfere with the parties’ job performance and that it will not negatively alter the work environment. The love contract should also reiterate the employer’s anti-harassment policy. The contract should put the ball in the parties’ court to notify the employer of any unwelcome behavior and change in the relationship. Whether or not informed consent/love contracts make sense depends greatly on the dynamics and size of the employer. Also, before implementing this tactic, the employer should consider whether such contracts would be seen as intrusive by employees and therefore create a backlash. Moreover, employers should be prepared with an appropriate response to a couple who refuses to sign such a contract.

Professional Behavior/Code of Conduct

⁹http://www.martindale.com/labor-employment-law/article_Long-Levit-LLP_46298.htm

Another policy employers may consider is one that promotes professional behavior in the workplace. Public displays of affection (“PDA”) and sexual banter may make other employees uncomfortable, can be considered unprofessional and may give rise to complaints of sexual harassment. Employers can direct their employees to always behave in a professional manner at work, and to refrain from PDA and sexual banter at work.

Finally, while it may be tempting, employer policies should not prohibit adulterous relationships that do not give rise to conflicts of interest or otherwise harm the work environment. Barring adulterous relationships and not other relationships, may violate the California Fair Employment and Housing Act’s (“FEHA”) prohibition of marital status discrimination. The same goes for attempting to only focus these policies on same-sex romances.

Ultimately, clear and effective written policies will help employers maintain professional work environments. Like all policies, workplace romance policies should be applied consistently to all employees regardless of an employee’s job position, sexual orientation, gender, race, marital status, or any other protected characteristic.

Establish An Anti-Harassment Policy and Provide On-going Training

Like any relationship, workplace romances may end in heartbreaking fashion. Employers become prime targets when one employee later claims that the workplace romance was actually non-consensual (*quid pro quo* sexual harassment), or that it created a hostile work environment. Furthermore, employees outside of the workplace romance may claim to be subjected to a hostile work environment as a result of perceived or actual favoritism by those involved in the workplace romance. For example, in *Miller v. California Department of Corrections*¹⁰ (2005) 36 Cal.4th 446, a supervisor was involved in sexual relationships with a number of women he supervised, and those women received promotions and received favoritism. The California Supreme Court recognized that such favoritism could be actionable when it is “severe or pervasive,” as in *Miller*.

Thus, even if an employer does not want to specifically address workplace romances, every employer should have a harassment prevention policy. Anti-harassment policies should make clear what conduct is prohibited,

¹⁰<http://caselaw.findlaw.com/ca-supreme-court/1188435.html>

who is protected, how employees can get help and report complaints, and what steps the employer may take once a complaint is made (including investigating and taking appropriate corrective action). Having a strong and clear policy, though, is just the first step. Employers must also ensure that the policy is disseminated to all employees and that employees truly know to whom to turn if they have any questions or concerns.

Furthermore, training is key (and mandatory in California for employers with 50 or more employees). At a minimum, supervisors and managers must receive sexual harassment training every two years. The training must meet very specific requirements including length, who is able to provide the training, the format of the training, and the subject matter discussed. Additionally, supervisors should be trained on the employer's conflict of interest policy and why it is not a good idea for supervisors to be in a romantic relationship with a subordinate.

While California law only requires supervisory employees to receive training, employers should consider training non-supervisory employees as well. Doing so will help ensure that every employee understands the company's policy on prohibited harassment and its related policies concerning workplace romances, conflicts of interest and professionalism. Furthermore, providing such training uniformly demonstrates the employer's dedication to prohibiting harassment and discrimination and can help companies defend against such claims should they arise.

Quickly Address Complaints

Once an employer knows about any potential violations of company policies, or receives a complaint, it must take action and investigate. An investigation is essential to finding out more information and to defending against potential legal claims. While an investigation need not be completely flawless, it should be thorough and conducted by an appropriate investigator with sound methods. Employers then must be ready to take action based on the investigator's findings and provide closure to the complainant and other parties involved.

Not all workplace romances cause workplace troubles. However, when they do, the strain on employers can be devastating. Employers should

protect themselves with appropriate workplace policies, training, and investigations so that one scorned lover does not destroy an otherwise happy workplace.

For over 15 years, **James Y. Wu** has advised and counseled employers ranging from less than five employees to Fortune 50 companies on employment law and HR issues. In January 2012, James established his own law office in Contra Costa County and he continues to provide day-to-day counseling to employers and a vigorous defense when companies are sued. James also started his three-year term on the CCCBA Board of Directors in January 2012. In 2008, James was the president of the Employment Law Section of the CCCBA served on that Board from 2007 to 2012. James may be contacted at james@jameswulaw.com¹¹ and www.jameswulaw.com.

Contested Conservatorships – Where’s The Love?!

Wednesday, February 1, 2012

”...for better for worse...in sickness and in health, to love and to cherish, till death us do part.”

A serious illness, such as dementia, puts such vows to the test. I certainly do not profess to be an expert on either love or dementia. But, as an elder law lawyer and court-appointed counsel for conservatees, I have observed some of the best and the worst in spouses, adult children, other relatives and friends in dealing with a loved one with dementia. Moreover, the legal process involved – most frequently conservatorships – can be part of the solution, part of the problem, or both.

Spouses seeking a conservatorship of a spouse with dementia appear most often to be genuinely concerned about looking out for what is in the best interests of the incapacitated spouse. However, there are times when that is not the case, such as when the spouse physically and/or financially abuses the frail spouse. I have been appointed as counsel on a couple of such cases and recently had a case in which the wife and her family were the perpetrators. When I visited the husband/conservatee, he indicated how heartbroken

¹¹<mailto:james@jameswulaw.com>

he was and that he wanted a divorce, which could be sought on his behalf through a conservator of the estate or guardian ad litem.

Often in contested conservatorship cases it is the adult children who are fighting over control of the incapacitated parent/parents. In the most extreme cases, brotherly or sisterly love is replaced by sibling rivalry. Fortunately, through mediation families will sometimes come together and attempt to cooperate. Unfortunately, many times they will not come together, and unpleasant, expensive litigation ensues. The litigation can be highly charged and costly and can take a tremendous toll on the parent with dementia. The outcome of such family battles frequently leads to court appointed counsel recommending and the court appointing a private professional fiduciary to serve as conservator.

One particularly contested conservatorship case for which I was court-appointed counsel for both spouses with dementia illustrates many of the various issues that arise in such a case. Difficult issues arose among the adult children, in-home caregivers, and private fiduciaries. Sides and conservators changed. Despite all the legal conflict and drama surrounding their care, when I met with the elderly couple they were very nice, sweet and loving towards each other and just wanted to stay together and be cared for at home as long as possible. They also appeared to equally love their children, even though they were the ones fighting over who should be in control over them. Unfortunately, for some time the children would not agree on almost anything. A heated mediation was held, as well as multiple court hearings. An issue arose with the in-home caregivers taking sides and providing inappropriate care. A geriatric care manager was brought in and her assessment resulted in several changes, including replacing the caregivers. Sadly, during this time, the wife died, leaving the husband devastated and depressed. Another fight for control over the husband among the children ensued. Fortunately, through a family meeting with counsel – along with the threat of a private fiduciary taking over control – the matter was informally resolved (at least for the time- being). The husband appeared to gradually improve with new caregivers, better family cooperation and the companionship of his dog. (The value of unconditional love of a pet to an individual suffering from dementia, or anyone, for that matter, cannot be understated.) In contested conservatorships, there can literally and figuratively be “a dog in that fight!”)

In many ways, contested conservatorship cases are a microcosm of the best and worst in human nature: running the full gamut from hate, abuse, greed, jealousy, selfish love, selfless love, etc., to unconditional love.

Michael LaMay is an attorney with the Bray & Bray Law Offices¹² in Martinez, specializes in elder abuse litigation, will & trust litigation, probate, conservatorships and estate planning, and serves as a board member of the Elder Law Section. He celebrates his 15th Wedding Anniversary on Valentine's Day.

Love in The Workplace- When Relationships Go Awry

Wednesday, February 1, 2012

Earn one hour of General MCLE credit by reading the article below and answering the questions of the Self-Study MCLE test¹³. Send your answers, along with a check for \$20 (\$30 for Non-Members), to the address on the test form.

¹²<http://www.brayandbraylaw.com/>

¹³<http://cclawyer.cccbba.org/wp-content/uploads/2012/01/MCLE-selftest-KELLY.pdf>



Patricia Kelly

Approximately 40 percent of workers say they have dated someone they worked with over the course of their career, while 18 percent report dating co-workers at least twice in their career. Additionally, 30 percent report they went on to marry a person they dated in the office. This is according to CareerBuilder's annual office romance survey¹⁴ of more than 3,900 workers.

However, office romances can be tricky. What starts as a friendly, mutual relationship, can end up with claims of sexual harassment, either hostile environment or quid pro quo, and with one or both losing his or her job. For example, unreciprocated feelings that are expressed after a consensual relationship ends might, make the work environment uncomfortable. Alternatively, a supervisor who is not content with ending the relationship might take adverse actions against a subordinate.

Workplace harassment on the basis of sex is unlawful pursuant to California Government Code § 12940(j)(1)¹⁵ and Title VII of the United States Civil

¹⁴<http://www.careerbuilder.com/share/aboutus/pressreleasesdetail.aspx?id=pr619&sd=2/10/2011&ed=12/31/2011>

¹⁵<http://law.onecle.com/california/government/12940.html>

Rights Act of 1964¹⁶. Sexual harassment is generally defined as unwanted sexual contact of two main types: (a) quid pro quo harassment, which occurs when employment is conditioned on submission to unwelcome sexual advances, or (b) unwelcomed sexual conduct that was severe or pervasive enough to create an abusive environment for the employee. (2 Cal. Code of Regs. § 7287.6.)

The first, “quid pro quo” harassment, occurs when any employee offers any job benefit, or threatens any job detriment, in exchange for sexual favors. This means that any time an employee promises, either expressly or impliedly, that career advancement may be linked to dating or sex.

The second type of sexual harassment is established when the workplace is permeated with discriminatory intimidation, ridicule and insults that are sufficiently severe or pervasive to alter the conditions of employment and create a “hostile” or “abusive” work environment. This type of harassment most commonly manifests itself in a variety of sexual or sexist comments, negative stereotypes about the victim’s gender, sexual jokes, propositions, lewd remarks or insults directed at one sex but not the other. If the comments are severe or frequent enough that the victim’s belief that his/her work environment is “hostile or abusive” is both objectively and subjectively reasonable, the law is violated. A single incident might create a hostile environment, depending on its severity, such as a sexual assault. (See *Doe v. Capital Cities*¹⁷ (1996) 50 Cal. App.4th 1038.)

The gravamen of any sexual harassment claim is that the harassment be “unwelcome.” (*Meritor Sav. Bank, FSB v. Vinson*¹⁸ (1986) 477 U. S. 57, 68.) Even if the victim goes along with the harassment, including jokes in the workplace or submission to a supervisor’s advances, it might later be found that the conduct actually was not “welcomed,” and therefore, unlawful.

Both men and women may sue for sexual harassment. The harasser need not be of a different gender than the victim. (See Cal. Gov. Code Section

¹⁶<http://www.eeoc.gov/laws/statutes/titlevii.cfm>

¹⁷<http://law.justia.com/cases/california/caapp4th/50/1038.html>

¹⁸<http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=477&invol=57>

12940¹⁹(j)(1); *Oncale v. Sundowner Offshore Services, Inc.*²⁰(1998) 523 U. S. 75, 80-81.) The harassment need not be motivated because of sex or sexual attraction; sexual harassment occurs when sex is used to create a hostile work environment. (*Singleton v. United States Gypsum Co.*²¹ (2006) 140 Cal. App.4th 1547, 1564.) Also, harassment based on gender still is unlawful, even if both sexes are harassed. (*Steiner v. Showboat Operating Co.*²² (9th Cir. 1994) 25 F.3d 1459, *cert. den.* 513 U. S. 1081 (1995).)

An employee might be the victim of unlawful sexual harassment even if the conduct is not directed at him or her, but towards others in the workplace. To establish sexual harassment when the individual was not directly subjected to offensive remarks or conduct, “plaintiff must establish that the sexually harassing conduct permeated her direct work environment.” (*Lyle v. Warner Bros. Television Productions* (2006) 38 Cal.4th 264, at 284-285.)

Co-workers also might make claims that the environment was pervaded by sexual conduct by dating between their supervisor and a subordinate in that dating implies that for one to get ahead in the company, one must sleep with the boss. For example, in *Miller et al., v. Department of Corrections et al.*²³ (2005) 36 Cal.4th 446, the Court held that although an isolated instance of favoritism on the part of a supervisor toward a female employee with whom the supervisor is conducting a consensual affair ordinarily would not constitute sexual harassment, when such sexual favoritism in a workplace is sufficiently widespread it may create an actionable hostile work environment in which the message is conveyed to other female employees that they are viewed by management as “sexual playthings” or that the way for women to get ahead in the workplace is to engage in sexual conduct with management.

All employers must take all reasonable steps to prevent harassment from

¹⁹<http://leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=12001-13000&file=12940-12951>

²⁰http://www.law.cornell.edu/supct/html/historics/USSC_CR_0523_0075_ZO.html

²¹<http://caselaw.findlaw.com/summary/opinion/ca-court-of-appeal/2006/07/05/141189.html>

²²<http://openjurist.org/25/f3d/1459/steiner-v-showboat-operating-company>

²³<http://scocal.stanford.edu/opinion/miller-v-dept-corrections-33548>

occurring. (Cal. Gov. Code §§ 12940((j))(1) and 12940((k).)²⁴) Such steps include the posting of a poster distributed by the California Department of Fair Employment and Housing ("DFEH,") developing and implementing a sexual harassment prevention policy with a procedure for complaints, informing the complainant of his or her right to be free from harassment and right to complain, fully and effectively investigating a complaint of sexual harassment and taking prompt and effective corrective action if the harassment allegations are proven. Additionally, employers having 50 or more employees must provide at least two hours of classroom or other interactive training and education regarding sexual harassment to all supervisory employees in California. (Cal. Gov. Code § 12950.1²⁵)

With respect to internal procedures for sexual harassment claims, the employer should provide alternatives by which a complaint may be raised, in order to avoid limiting the bringing of a claim to someone who is the alleged harasser. The policy also should describe disciplinary action which can be taken for such harassment.

When there is a complaint of sexual harassment, the employer has an obligation to investigate. (Cal. Gov. Code § 12940(k)²⁶.) Witnesses should be interviewed and decisions made as to credibility. Although not required, one possibility is to hire a neutral, outside investigator who is experienced with these claims. Often an employer is reluctant to make a determination as to the complaint if there is conflicting evidence. However, a decision must be made, so that appropriate corrective action can be taken. The complaining party then should be assured that appropriate action has been taken, although the specifics of that action often are not disclosed due to the privacy interests of the harasser.

Often, outside investigators are retained in order to reduce the risk of a claim of bias, although such claims often are made anyway, as the investigator is working for and paid by the employer. There also is an issue as to where the investigation will take place. Generally, an investigation is conducted at the employer's offices, although an off-site, neutral location might make the

²⁴<http://leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=12001-13000&file=12940-12951>

²⁵<http://leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=12001-13000&file=12940-12951>

²⁶<http://leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=12001-13000&file=12940-12951>

complaining party more comfortable. Another issue is whether an attorney for the complaining party should attend the investigation interviews. With respect to the investigator's notes and report, if a company is going to rely on having performed an adequate investigation as a defense to the complaining party's claims, it must permit discovery into the investigation, including the notes and report.

The Fair Employment and Housing Act ("FEHA") also prohibits retaliation for the bringing of a sexual harassment complaint or participating in an investigation. Complaining parties should be informed that retaliation will not be tolerated and that if there is retaliation, it should be reported immediately. If retaliation is not addressed, the employee may have an additional cause of action.

Under California law, which is broader than federal law on this subject, only employers with five or more employees can be liable for unlawful discrimination. However, unlike other types of unlawful discrimination, claims that are specifically for sexual harassment can be brought against an *individual or employer with fewer than five employees*. (Cal. Gov. Code §§ 12940(j)(1) and 12940(j)(4)(a).²⁷) Employers not only can be held liable for harassment of their employees, but also unlawful harassment of applicants and persons providing services pursuant to a contract of employment. (Cal. Gov. Code § 12940(j)(1).²⁸) An employer also can be held liable for sexual harassment by non-employees, if the employer knew or should have known that a non-employee (such as a contractor or customer) had sexually harassed an applicant, employee or person providing services to the employer and failed to take immediate and appropriate corrective action. (Cal. Gov. Code § 12940(j)(1).²⁹.)

Before filing a lawsuit alleging sexual harassment under the California Government Code, a complaint must be filed with the DFEH. Such a complaint must be filed within one year of the act about which the complaint is brought with respect to quid pro quo harassment, and within one year of any act

²⁷<http://leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=12001-13000&file=12940-12951>

²⁸<http://leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=12001-13000&file=12940-12951>

²⁹<http://leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=12001-13000&file=12940-12951>

which is part of a hostile work environment claim. After the DFEH conducts an investigation, or there is a request by the complaining party, a case closure letter (often referred to as a “right-to-sue letter”) is issued. Under state law, if a lawsuit is being brought, it must be brought within one year of the issuance of the case closure letter. (Cal. Gov. Code § 12965³⁰.) If a complaining party wishes to file a complaint under federal law with the United States Equal Employment Opportunity Commission (“EEOC”) about work in California, he or she must do so within 300 days of the act, and file a lawsuit within 90 days of the receipt of a notice of the EEOC case closure letter, although the 90 day time period might be tolled if there is an ongoing DFEH investigation. (42 U. S. C. § 2000e-5(e)(1).)

A victim of harassment can recover compensatory damages for emotional distress and lost wages, injunctive relief such as reinstatement to a position, and attorney’s fees and costs. Also, under the FEHA, punitive damages are available for oppression, fraud, or malice. However, there must be personal oppression, fraud or malice, or, with respect to a corporation, such oppression, fraud or malice must be on the part of a corporate officer, director or managing agent. (Cal. Civ. Code § 3294(b)-(c))³¹; *White v. Ultramar, Inc.* ³²(1999) 21 Cal.4th 563.)

There are a number of related claims which might be brought along with a claim of unlawful sexual harassment, which do not require an exhaustion of administrative remedies prior to the filing of a lawsuit and some of which might have a longer statute of limitations than one year. Some such claims might be wrongful termination in violation of public policy, constructive discharge, and other common law torts, such as negligent hiring or retention, or assault and battery.

Sometimes an individual is wrongfully sued for sexual harassment. An accused employee who successfully defends against such charges might be entitled to indemnification from his or her employer, as an employer must indemnify an employee for all that the employee necessarily expends in direct consequence of the discharge of his duties. (Cal. Lab. Code § 2802,)

³⁰<http://law.onecle.com/california/government/12965.html>

³¹<http://codes.lp.findlaw.com/cacode/CIV/5/d4/1/2/1/3/s3294>

³²<http://caselaw.findlaw.com/ca-court-of-appeal/1462222.html>

Download the MCLE Self-Study test form here³³: Earn one hour of Detection/ Prevention of Substance Abuse MCLE credit by reading the article above and answering the questions of the Self-Study MCLE test³⁴. Send your answers, along with a check for \$20, to the address on the test form.

About the author:

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Federal Government Reduces Waiting Time for Immigrants and Families to Be Reunited

Wednesday, February 1, 2012



³³<http://cclawyer.cccbba.org/wp-content/uploads/2012/01/MCLE-selftest-KELLY.pdf>

³⁴<http://cclawyer.cccbba.org/wp-content/uploads/2012/01/MCLE-selftest-KELLY.pdf>

Erika Portillo

A long-awaited change in immigration law for U. S. citizens married to undocumented immigrants is on its way. On January 6, 2012, the U. S. Citizenship and Immigration Services (USCIS) announced on the Federal Register its plan to reduce the time that U. S. citizens are separated from their spouses and children while those family members go through the process of becoming legal residents.

Currently, undocumented spouses and sons and daughters of U. S. citizens who have accrued a certain period of unlawful presence in the United States and have to leave the country as part of the legal immigration process, are barred from returning to their U. S. families for as long as 3 or 10 years. However, they can receive a waiver to allow them to return to their families by showing that their U. S. citizen family member would face extreme hardship as a result of the separation. Unfortunately, the time for adjudication of the waiver can take up to two years. Meanwhile, U. S. citizen relatives are left in the United States with the full responsibility for their households, usually without the support of their spouses. Because of the inability to cover all expenses, they are often forced to have two jobs or even to ask for public assistance, affecting the economy as a whole.

Also, most of the waivers are filed in Ciudad Juarez on the U. S.-Mexico border, an extremely dangerous city where more than one applicant has been murdered or seriously harmed.

Under the proposed change, individuals will be able to apply for a waiver within the U. S. Once adjudicated, as part of the process they will have to leave for a visa interview at a consulate abroad. However, the time spent outside the U. S. will be less, as they will have a pre-approved waiver that will allow them to return to the U. S. much faster. While there are questions that remain as to some of the details of the process, hopefully these questions will be answered before the new rule is implemented.

The change has been applauded by many, including this author. Although this issue represents a small portion of the myriad problems arising from the broken immigration system, this solution presents a significant, positive change in process for many individuals. This new change will definitely reduce the stress that many families are now forced to go through while trying to secure their relative's lawful status in the United States.

There is great hope these changes will lead to a much-needed immigration reform. While many are concerned with legalizing “criminal behavior”, most undocumented immigrants do not have any criminal records. The only criminal act the party has committed is entering and remaining in the U. S. unlawfully. While that should not be condoned, punishing families with irrational laws that promote fear and discrimination, and create a further strain on the public fisc, provides no relief. Instead, a well thought-out law should be implemented to benefit not only the undocumented immigrants but the economy as well.

Workplace Dating and Third-Party Retaliation

Wednesday, February 1, 2012

“Don’t dip the pen in company ink.” “Don’t get your honey where you make your money.” “Don’t catch your fish off the company pier.” There are a number of commonly used expressions that warn of the potentially negative consequences of dating a co-worker. Generally, these sayings hint at the awkwardness that could arise if a workplace romance ends on unfavorable terms.

Until recently there was a much less known risk to engaging in a workplace romance. This risk involved protection, or lack thereof, under § 704(a) of Title VII of the Civil Rights Act of 1964³⁵, 42 U. S. C. § 2000e-3(a). Under the subsequently overturned holdings of many circuit courts that interpreted Title VII, if an employee filed a discrimination charge against their employer, her spouse or fiancée that worked for the same employer would not be protected, as she is, from any resulting retaliation. The law changed on January 24, 2011, when the United States Supreme Court decision in *Thompson v. North American Stainless, LP*³⁶ (No. 09-291, Jan. 24, 2011) made it so an employees’ spouse or fiancée (among others) would be protected from subsequent retaliation in such a situation.

³⁵<http://employment.findlaw.com/employment/employment-employee-discrimination-harassment/civil-rights-title-7.html>

³⁶<http://www.law.cornell.edu/supct/cert/09-291>

Background

Eric L. Thompson was employed by North American Stainless as a metallurgical engineer in its stainless steel manufacturing facility in Kentucky. In 2000, while he was working at North American Stainless, the company hired Miriam Regalado. Thompson and Regalado met soon after, and began dating. After dating for a while, the two decided to get engaged. It was common knowledge at North American Stainless that Thompson and Regalado were in a relationship.

In September 2002, Regalado filed a charge with the Equal Employment Opportunity Commission ("EEOC"), alleging that her supervisors discriminated against her based on her gender. On Feb. 13, 2003, the EEOC notified North American Stainless of this charge. On March 7, 2003, the company terminated Thompson's employment. Thompson alleged the termination was in retaliation for Regalado's EEOC charge, while North American Stainless contended the termination was performance-based. Thompson responded by filing a retaliation claims under Title VII against North American Stainless.

In the subsequent lawsuit filed in federal court, North American Stainless moved for summary judgment on Thompson's retaliation claim, arguing that Title VII does not recognize any "third-party" retaliation claim of the type Thomson had articulated. The court ruled in favor of North American Stainless. Thompson appealed the decision to the Sixth Circuit Court of Appeals. A panel of judges on the Sixth Circuit initially reversed the lower court decision, but after a rehearing en banc, the full circuit affirmed the lower court decision. The circuit court held that the anti-retaliation provisions of Title VII did not protect Thompson because he did not personally engage in protected activity on his own behalf or on behalf of his fiancée.

The Supreme Court Decision

In making its decision, the Court looked at whether Thompson's termination by North American Stainless constituted unlawful retaliation, and if so, whether Thompson had a cause of action under Title VII.

In answering the first question, the Court stated, "a reasonable worker might be dissuaded from engaging in protected activity if she knew that her fiancée would be fired." The Court stated it had no difficulty coming to this conclusion, especially given its previous decisions construing Title VII's

anti-retaliation provision to "cover a broad range" of employer misconduct.

In answering the second question, the Court looked at whether Thompson was a person "claiming to be aggrieved" – the applicable legal standard under Title VII. The Court's decision hinged on the meaning of "aggrieved." The Court held that Congress did not intend the term to apply only to the person directly discriminated against (in this case, Regalado). Rather, because "the purpose of Title VII is to protect employees from their employers' unlawful actions," and because Thompson, like his fiancée, was an employee of North American Stainless, he was within the "zone of interests" Congress intended Title VII to protect.

For these reasons, the United States Supreme Court reversed the decision of the circuit court³⁷, holding that Title VII's ban on workplace retaliation against an employee who challenges discrimination also protects a co-worker who is a relative or close associate of the targeted employee.

Conclusion

For employers, the decision in *Thompson v. North American Stainless LP* serves as a reminder of the importance of establishing and documenting the nondiscriminatory and non-retaliatory bases for all terminations. For employees, it removes one potential risk of engaging in a workplace romance. Unfortunately, it does not remedy the risk of having to one day see your ex-girlfriend everyday at work.

Aman Syed recently received his J. D. from The Ohio State University Moritz College of Law. He was previously a Summer Associate at the Columbus, Ohio office of Vorys, Sater, Seymour and Pease LLP. Mr. Syed can be contacted at aman49@gmail.com.

Life, Love, Law & the Practice of All

Wednesday, February 1, 2012

We started working together after Loren obtained her M. B. A. from U. S. C.

³⁷<http://www.scotusblog.com/case-files/cases/thompson-v-north-american-stainless/>

and left investment banking. Frank's estate planning practice was growing and he needed help with probate cases and business systems planning. We both thought it would only be for a short time. The office was near Las Lomas High School where our kids would eventually land. Working together seemed like a good way for both of us to balance careers and parenting.

Combining the excitement of a start-up and the anxiety of what it might mean to work together, we sketched out a plan for Loren to have her own role in the law firm, using her skills and background to best use.

Loren: I started out trying to bring the “Big Business” ideas I had studied in business school to Frank's boutique, personal-service firm. Wrong approach. Eventually, I learned to embrace the joy in helping individuals with the wide variety of issues that surround planning for the transition of wealth to the next generation. After learning the craft, I was better able to build processes that worked in that firm's culture.

Frank: As the business changed and grew, so did Loren's role. At first, she worked on discrete projects and probate cases; then she took on the role of senior paralegal for probate, conservatorship, and trust administration practice. Then, as growth exploded, her role expanded to include managing cash flow and system improvements needed for a growing law firm.

Loren: Frank is a wonderful strategic thinker and he loves marketing (I used to tell him that discussing marketing was like having dessert; it was always added as the last item on any firm meeting agenda). When meeting with clients, he can quickly analyze legal situations and explain concepts so his clients can easily grasp them. Because Frank spends many hours speaking to various professional groups, we developed a system that enabled him to supervise, delegate, and keep doing what he enjoys most.

Frank: Loren's skills are more focused on digging into a subject until she understands it completely and thoroughly. I tease her about being like “a racoon with a rock”, researching and examining a problem from all sides until she can develop a series of steps; a spreadsheet; a database; or, other tools to make the work more effective. I loved it because it gave me time to work on cases and to look for new opportunities.

Loren: Frank helped me develop an expertise in estates and trust by encouraging me to research and by allowing me to build an approach to this practice area. I helped him build his business by setting up systems that could be

transferred to new staff and reduce costs. Together, we developed a set of values to build our business upon: Empathy, Expertise, and Effectiveness. Our entire team dedicated themselves to making sure that our clients would experience these values on every matter we touched. This legacy continues in his law practice and in my professional fiduciary firm.

Frank: As our children graduated from high school, Loren had a dream of starting her own business. She obtained her license as a professional fiduciary and now serves clients directly and with a team of professionals. I continue to practice as an estate planning, probate, and trust specialist with Acuña, Regli & Klein, LLP.

Loren: The children have moved on to college and careers and we are in a new season together. I am excited about the opportunity to explore my own directions; spread my wings and to use my education, financial background, and my years of experience working in my husband's law firm. When we worked together in the same office, we would occasionally feel a little too close for comfort. However, we now miss the closeness and camaraderie we shared every day for ten years.

Frank: There is nothing like the level of trust you have in working with someone whose life, love and future are so intimately tied with your own.

Final Thoughts: We respect each other's skills and abilities in a way that would not be possible if we had not worked together. We continue to support and encourage each other, but we also respect conflict of interest rules as well as a fiduciary's duty of independent oversight as to professionals hired. Therefore, we each have our own office and find few, if any, opportunities to work together these days.

Loren R. Acuña, is a private fiduciary with The ACE Fiduciary Group³⁸. You can obtain more information about her skills and background at www.ACEfiduciary.com or by contacting her at (925) 906- 1882, or by email at Loren@ACEfiduciary.com³⁹.

Frank R. Acuña, a partner with Acuña, Regli & Klein, LLP⁴⁰, is a State Bar of California certified specialist in Estate Planning, Probate and Trust

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⁴⁰<http://www.AcunaRegliKlein.com>

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Black & Brown – Lawyers in Love

Wednesday, February 1, 2012

Cheryl (Cheryl K. Black, Esq.) and I met while in college at UC Davis. We both had internships in, you guessed it, a law office in Sacramento. We began dating.

After graduation from college, we each started law school – I went to Southwestern in LA and Cheryl went to Hastings. We spent that first year traveling back and forth between LA and San Francisco as time and budget permitted (there was a 6:00 am Pan Am flight, \$10, including breakfast, LAX-SFO). I transferred to Hastings at the beginning of second year. We moved in to a little house in El Cerrito.

We graduated together from Hastings on May 17th, 1980. During graduation, it was announced that the next day, May 18th, 1980, we would be married! We got a nice round of applause and in honor of our wedding, Mt. St. Helens, a place we had camped the August before, blew its top!

The summer of 1980 we spent in bar review, commuting to Boalt Hall on a Honda 350. We took the July bar together, and thank G-d, both passed.

In March 1981, we hung out a shingle. Literally. With the last of our student loans, we rented a house on the Richmond/El Cerrito border, where now is located the Starbucks parking lot. We practiced together there until 1984, when Steve Easton became a juvenile referee and I took over his practice on San Pablo Avenue. Again, we shared office space – it was pretty cramped but we did it.

In September 1987, with our law school friend, Barbara Lanier, we formed Black, Brown & Lanier, A Professional Association. In 1992 we took in an associate, Edith Jackson, and after some years Edith became a partner and we changed the firm name to Black, Brown, Lanier & Jackson, and continued to practice together until 2005 when Cheryl decided that she didn't

⁴¹<mailto:ohc@AcunaRegliKlein.com>

want to practice law anymore, and retired (she has since gone back to work as a kindergarten teacher – parallels?). In 2006, I relocated to Hilltop as a solo where I have been ever since, engaged in the practice of probate, trust and estate law.

How did we do it? I'm not sure, except for the following:

We did not share cases - I handled my cases and she handled hers. Early in our career we tried to handle a case jointly and it was a major disaster, so we figured that part out quick.

We stayed flexible. Cheryl assumed most of the burden of raising our two sons and at times spent a little less time in the office, and I a little more.

We spoke a common language. We complained about the same things, we talked about our cases (all covered by the privilege, I will point out), we didn't have any hard and fast rules about taking or not taking work home.

We remained, and remain to this day, best friends (some might say she's my only friend!). We were and are committed to our marriage and I look forward to growing old with her.

One other factor that was frankly huge in our successful balance of working, living and raising a family together was the fact that our home, our business, and our kids' schools were all within a 2.2 mile radius. Having no commute was a major factor in our success.

Love & the Law

Wednesday, February 1, 2012

In 2003 when Lee and I first started talking about having a shared private family law courtroom in Walnut Creek, we were careful to anticipate all potential complications which might be involved in sharing not only a home but a work space. After all, we are both used to being "The Boss" in our own practice for many years and have very firmly ingrained work habits, preferences, and ideas about how an office should operate. As a result, we spent weeks talking about how to make it work before we began to look for office space.

One thing that made a huge difference was the fact that I had already been doing “have robe, will travel” for five years, and had become very attached to my custom-built home office (and it’s mine....mine, mine, mine!)* I loved the fact that if I didn’t have court scheduled, I could put on my sweats and “go to work” upstairs with the dog on his pillow in the corner. As a result, I decided I didn’t want to have a separate office at the courtroom for myself. Unlike Lee, who also does mediation and therefore needs a place to meet clients, I only do private judging. The only time I go to the office is when I have court scheduled. That means that Lee runs the day to day operations of the office exactly as he likes, and if I would have done it differently, it doesn’t matter because I’m not there. (Of course, it didn’t hurt that I got to pick the color scheme and art.)

We also have very different ideas about how our work day develops. Lee routinely leaves for the office around 5:00 a.m.(!) That means that I can happily kiss him goodbye and go right back to sleep, because I wouldn’t be caught dead anywhere near the office at that ungodly hour. He gets to preserve his early morning routine without interference from me, and I get to live like a civilized person.

We’ve now shared the courtroom for 8 years, and it has worked out extraordinarily smoothly. In all, I’d do it again in a heartbeat.

*Lee wants me to point out here that he *does* have a corner of the home office to call his own, although my part is the size of San Francisco and his is more like Pacheco.

A Budget That Could Cause a Broken Heart

Wednesday, February 1, 2012



Kiri Torre, Court Executive Officer

The Superior Court has faced challenging times. Our court operations budget has been permanently cut from \$63 million to \$54.6 million, a 13.3% budget reduction since FY 2008-09. Most of those cuts have come in the way of staff reductions. In FY 2008-09 the court had 440 employees. Over the past three fiscal years, a total of 120 employee positions were eliminated through attrition and layoffs bringing our staffing level to 320 employees – a reduction of 27% percent.

The fiscal year 2012-13 budget, which begins July 1, 2012, will cause heartache for many who use the court system. If the Governor's proposed budget is enacted, this is likely to be the first year in which the Court will be forced to drastically reduce services to the public.

From news accounts you might think that the proposed FY 2012-13 judicial branch budget is a status quo budget, which even restores some funding to

the courts. But that misses the real story. The current year's budget imposes massive cuts on the Judicial Branch totaling \$350 million statewide. The only reason court-related services haven't been drastically cut throughout the state already is that the state's Administrative Office of the Courts found some one-time funds to temporarily cover the majority of the \$350 million – for this year only. As a result, those massive cuts will be felt, full force, in FY 2012-13. For our court, that means an additional \$6.3 million in permanent cuts, over and above the \$8.4 million cut we have already taken since fiscal year 2008-09.

The Governor's budget proposes to increase civil fees by \$50 million. That may result in a restoration of \$1 million to our court's budget. But it would still leave \$5.3 million to cut in fiscal year 2012-13. Fortunately, the Court has been fiscally prudent and has accumulated a one-time fund balance which can be used to help manage the permanent reductions during the course of the upcoming fiscal year. But we will still have to make painful cuts.

Events could make matters even worse. If the temporary taxes proposed by the Governor are rejected by the voters, then there will be another \$125 million cut to the Judicial Branch. Our court would then have to cut at least an *additional* \$2.5 million. , That would make the total cuts, next year, \$7.8 million. Our court will have been cut 26% since FY 2008-09.

The Court is reviewing its options to reduce services to the public, based on these significant budget reductions. We will seek the input from court users prior to making the reductions.

These are very challenging times for the Judicial Branch and the public we serve. We will do our best to mitigate the impacts on the public to the extent possible. We await the May Revision of the Governor's Proposed FY 2012-13 Budget, based on the outcome of current budget negotiations. But those who respect the purpose of our courts in society must pay attention to the heartbreak that impends.

Watch Presiding Judge Diana Becton's State of the Court presentation, expanding on the looming budget cuts and community outreach programs that are in danger of being eliminated in the process:



New Form Required of California Employers Effective January 1, 2012

Wednesday, February 1, 2012

2012 arrives with a new legal requirement with which employers need to become immediately familiar.

This is a result of California's Wage Theft Prevention Act⁴² (AB 469), effective January 1, 2012. The law covers a large number of points about employer-employee relations and penalties for non-compliance with the law. One special point focused on here is that certain information has to be provided to new employees at the time they are hired, and also again during wage claim proceedings and when the information previously provided changes.

Specifically, new Section 2810.5 of the Labor Code⁴³ requires that employers provide notice to newly hired employees of details about their compensation, and about the employer itself, as described below. Employers

⁴²https://www.dir.ca.gov/dlse/Governor_signs_Wage_Theft_Protection_Act_of_2011.html

⁴³https://www.dir.ca.gov/dlse/Governor_signs_Wage_Theft_Protection_Act_of_2011.html

are also sometimes required to provide further notices when these details change.

The notice must be provided in the language the employer normally uses to communicate to the employee. The Department of Labor Standards Enforcement, State of California, has provided an optional template for this notice in a number of languages at: https://www.dir.ca.gov/dlse/Governor_signs_wage_Theft_Protection_Act_of_2011.html

Some specific points:

All private sector employers are covered unless there is a specified exception. The notice is not required as to the following employers: the state or a political subdivision, including a city, county, or special district. It also does not apply to an employee who is exempt from the payment of overtime wages, nor does it apply to employees covered by a valid collective bargaining agreement if that agreement meets specified conditions.

Key details of the content of the notice include: (1) the rate or rates of pay and whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including rates for overtime; (2) meal, lodging or other allowances, if claimed as part of the minimum wage; (3), the regular payday designated by the employer; (4) the name of the employer, including any “doing business as” names it uses; (5) the physical address of the employer’s main office or principal place of business, and a mailing address, if different; (6) the telephone number of the employer; and (7) the name, address, and telephone number of the workers’ compensation insurance carrier.

The employer must notify the employee in writing of any changes to the information set forth in the notice within seven (7) calendar days after the time of the changes, unless (1) All changes are reflected on a timely wage statement, or (2) Notice of all changes is provided in another writing required by law within seven days of the changes.

Regardless of whether each piece of the required information has been given in other materials, the employer has to give the employee one document (either in hard copy or electronically) with the information all contained on one form.

If, later on, the only change to the information is a change in wage rate, a new notice need not be issued, so long as the new wage rate appears on the earnings statement with the next payment of wages.

As stated above, employees who are exempt from overtime pay requirements by statute or California Wage Order are excluded from this notice requirement.

If you have any new hires or other occasion to furnish this form to an employee, we suggest you visit the website listed above, download the form in either PDF or Word Template, and start using it!⁴⁴

Harvey Sohnen, a past editor of Contra Costa Lawyer, practices employment law with Law Offices of Sohnen & Kelly in Orinda. Their website is www.sohnenandkelly.com

Using a Sledgehammer When a Scalpel Is Needed to Protect Copyright Holders

Wednesday, February 1, 2012

I am an American intellectual property attorney who has both traditional content and Internet-based clients. I represent both plaintiffs and defendants – about 50% each. I’ve represented movie companies, music producers, musicians, authors, photographers and other content providers, as well a wide variety of web-based companies.

As such, I have experienced first-hand the importance of balancing copyright protection, Internet innovation and respect for constitutional principles.

The Senate’s proposed stop online privacy act (SOPA) and the House version, Protect Intellectual Property Act (PIPA), aim to curb online copyright piracy ... but end up using a sledgehammer, when a fine scalpel is instead needed.

⁴⁴https://www.dir.ca.gov/dlse/Governor_signs_Wage_Theft_Protection_Act_of_2011.html

Harvard Law School professor Laurence Tribe – one of the top constitutional experts in the country – wrote a letter⁴⁵ to Congress last month stating that SOPA is unconstitutional.

As the Hill noted⁴⁶:

Laurence Tribe, a constitutional law expert at Harvard Law School, argues [SOPA] violates the First Amendment in a memo sent to members of Congress on Thursday.

The bill would empower the Justice Department and copyright holders to demand that search engines, Internet providers and payment processors cut ties with websites “dedicated” to copyright infringement.

Tribe argues the bill amounts to illegal “prior restraint” because it would suppress speech without a judicial hearing.

Additionally, the law’s definition of a rogue website is unconstitutionally vague, Tribe writes.

“Conceivably, an entire website containing tens of thousands of pages could be targeted if only a single page were accused of infringement,” Tribe writes. “Such an approach would create severe practical problems for sites with substantial user-generated content, such as Facebook, Twitter, and YouTube, and for blogs that allow users to post videos, photos, and other materials.”

Indeed, the Weekly Standard argues⁴⁷ that SOPA is modeled after Chinese laws allowing the government to crack down on the Internet in that country. Certainly, America should not emulate China on issues of copyright or free speech.

No wonder conservatives and liberals are joining forces⁴⁸ to fight the bills. And see this⁴⁹.

⁴⁵<http://www.net-coalition.com/wp-content/uploads/2011/08/tribe-legis-memo-on-SOPA-12-6-11-1.pdf>

⁴⁶<http://thehill.com/blogs/hillicon-valley/technology/198575-legal-expert-online-piracy-bill-is-unconstitutional>

⁴⁷http://www.weeklystandard.com/blogs/mpaa-head-chris-dodd-online-censorship-bill-chinas-model_611984.html

⁴⁸<http://www.politico.com/news/stories/1211/70878.html>

⁴⁹<http://www.digitaljournal.com/article/316812>

Additionally, venture capitalists and the captains of the tech and Internet sectors say that SOPA and PIPA would gravely hurt the economy at a time when recovery is still fragile. For example, Digital Trends points out⁵⁰:

The list of SOPA opponents also includes 425 venture capitalists and entrepreneurs — i.e. job creators.

Indeed, many business leaders⁵¹ say that these bills would be a blow to jobs and the economy. Given that tech is one of the only vibrant sectors of the economy right now, we should listen to them.

Finally, the engineers who actually created the Internet and security experts say that SOPA will undermine the stability of the Internet. As Digital Trends reports⁵²:

83 Internet pioneers⁵³ — we’re talking people like Vint Cerf, co-designer of TCP/IP⁵⁴; Jim Gettys, editor of the HTTP/1.1 protocol standards⁵⁵; Leonard Kleinrock, a key developer of the ARPANET⁵⁶; in other words, the very people who built the Internet — who say that SOPA (and ... PIPA), “will risk fragmenting the Internet’s global domain name system (DNS) and have other capricious technical consequences” because of the bills’ requirement that Internet service providers block domain names of infringing sites.

In their letter to Congress, this group of Internet founders also argues that SOPA “will create an environment of tremendous fear and uncertainty for technological innovation, and seriously harm the credibility of the United States in its role as a steward of key Internet infrastructure.”

⁵⁰<http://www.digitaltrends.com/opinion/sopa-sponsor-rep-lamar-smith-to-sopa-opponents-you-dont-matter/>

⁵¹<http://www.washingtonsblog.com/2011/12/sopa-would-destroy-jobs-and-the-economy-so-why-is-the-afl-cio-supporting-it.html>

⁵²<http://www.digitaltrends.com/opinion/sopa-sponsor-rep-lamar-smith-to-sopa-opponents-you-dont-matter/>

⁵³<https://www.eff.org/deeplinks/2011/12/internet-inventors-warn-against-sopa-and-pipa>

⁵⁴http://en.wikipedia.org/wiki/TCP/IP_model

⁵⁵http://en.wikipedia.org/wiki/Hypertext_Transfer_Protocol

⁵⁶<http://en.wikipedia.org/wiki/ARPANET>

Former Department of Homeland Security Assistant Secretary Stewart Baker ... agrees with the Internet founders when he says⁵⁷ that SOPA will “do great damage to Internet security, mainly by putting obstacles in the way of DNSSEC, a protocol designed to limit certain kinds of Internet crime,” among other repercussions.

Sandia National Laboratories and others agree⁵⁸.

Don't Throw the Baby Out With the Bathwater

While SOPA and PIPA are the wrong tools for the job, that doesn't mean that we should abandon copyright altogether.

Some argue that copyright is a burden on our society which stifles innovation. They argue that the concept of “open source” should be taken to the extreme ... and all copyright laws abandoned.

But copyright is one of the foundations upon which our nation was built. Copyright protection is enshrined in our founding documents. Article I, Section 8, Clause 8 of the United States Constitution – known as the “Copyright Clause” – empowers the United States Congress:

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

Indeed, most people wouldn't be motivated to put their time or money into creating useful or pleasing works if they didn't think there could be a payoff at the end of the day. Copyright protection helps entrepreneurs – whether software programmers, musicians, artists, authors or photographers – to protect their hard work and investment.

In a free market economy, “the pursuit of happiness” requires that our property be protected against theft. In the physical realm, that means things like laws protecting against foreclosure on our houses without justification. Intellectual property laws, such as copyright, protect our creative efforts, and motivate us to work harder to write that killer app, great song, or great American novel.

⁵⁷<http://www.skatingonstilts.com/skating-on-stilts/2011/12/the-sopa-rope-a-dope.html>

⁵⁸<http://www.cdt.org/report/list-organizations-and-individuals-opposing-sopa>

So What Should We Do?

SOPA and PIPA are overbroad and dangerous to our civil liberties and our economy. But there are websites which make money off of pirated versions of movies, music and other creative works and don't provide any value added of any nature whatsoever.

So what should we do?

Jay McDaniel – one of the lead attorneys fighting torrent-based copyright infringement – argues⁵⁹:

There is a simple solution to the dilemma of digital piracy, however, one that will cost the government nothing, that will protect free speech and that will ultimately bring an end to a practice that is undermining the viability of our cultural industries. More importantly, it will enable Congress to avoid polluting legitimate free speech issues with behavior that is neither protected by the Constitution nor lawful.

Simply let copyright holders exercise the right to efficiently discover the identity of infringers. Copyright law as it presently exists with its substantial civil remedies will take care of the rest of the problem.

The answer is simple. Congress should overrule two decisions that held that copyright owners could not use the Digital Millennium Copyright Act (DMCA) to subpoena the identities of infringers directly from cable internet service providers. These two decisions, *Recording Indus. Ass'n of America v. Verizon Internet Servs., Inc.*, 351 F.3d 1299 (D. C. Cir. 2003) and *In re Charter Communications, Inc.*, 393 F.3d 771 (8th Cir. 2005), have made it extremely difficult for copyright owners to find and prosecute civil claims against the wide-spread piracy that occurs on peer-to-peer networks.

Both cases involved attempts by copyright owners to use a provision in the DMCA that allows the owners to issue takedown notices to Internet Service Providers (ISPs) and to also obtain a subpoena to learn the identity of the

⁵⁹http://www.lexology.com/library/detail.aspx?g=058cccf1-7eb0-4469-89af-705c56b63394&utm_source=Lexology+Daily+Newsfeed&utm_medium=HTML+email+-+Body+-+Federal+section&utm_campaign=Calibar+ip+section+subscriber+daily+feed&utm_content=Lexology+Daily+Newsfeed+2012-01-09&utm_term=

infringer. The Verizon and Charter Communications courts held that the takedown notice-subpoena provisions did not apply to claims seeking to discover the identity of Internet account holders.

It was a strained reading of the statute to begin with, and it has led to a morass of litigation and discovery disputes in which there are conflicting jurisdictional and venue decisions on a nearly daily basis. More significantly these decisions closed the courthouse doors to any copyright holder that cannot demonstrate widespread copying sufficient to justify bringing a large “John Doe” action just to find out who the culprits are. Moreover, in a relatively small number of cases, hostile district judges are unwilling to let the cases go forward in any reasonably economic manner.

Copyright holders know that their works are being pirated. They know where they are being pirated and how they are being pirated. But they simply cannot get to the pirates. If Congress were to overrule these decisions, the problem would disappear as the people who break the law would find themselves facing the serious consequences of a civil infringement suit. The infringers would pay for the remedy through statutory fee shifting.

Private enforcement litigation would replace the need for government oversight of our Internet habits, and those who break the law would fund the system. Digital piracy, in its present form, would quickly come to a halt for the same reason that we don’t shoplift copies of DVDs from Walmart. It’s too easy to get caught and the penalties are too severe.

McDaniel’s proposal can be improved, and details fine-tuned to ensure the right balance between copyright protection, encouragement of Internet and tech market innovation and protection of civil liberties such as fair use of portions of copyrighted material for political commentary.

But one thing is certain: we need better legislation than SOPA and PIPA. As constitutional law expert Lawrence Tribe wrote⁶⁰ in his letter to Congress:

[SOPA] creates confusion and underscores the need to go back to the drawing board and craft a new measure that works as a scalpel rather than a

⁶⁰<http://www.net-coalition.com/wp-content/uploads/2011/08/tribe-legis-memo-on-SOPA-12-6-11-1.pdf>

sledgehammer to address the governmental interests that SOPA purports to advance.

Postscript: As reported by Forbes⁶¹, the Atlantic Monthly⁶² and others, coders are already developing work-arounds to SOPA and PIPA. For example, a developer using the alias “Tamer Rizk” launched DeSopa⁶³, an add-on for the popular Firefox browser that would allow users to visit sites blocked by the proposed copyright protection measures proposed under SOPA. So not only these bills are not only draconian, but they won’t work.

This article was previously published on The Williams Firm website⁶⁴.

D. Alexander Floum, Esq. – a former adjunct law school professor and founding president of the IP section of the Contra Costa County Bar Association – practices intellectual property law at The Williams Firm⁶⁵ in Walnut Creek, California.

⁶¹<http://www.forbes.com/sites/andygreenberg/2011/12/21/sopa-haters-are-already-finding-easy-ways-to-circumvent-its-censorship/>

⁶²<http://www.theatlanticwire.com/politics/2011/12/coders-are-already-finding-ways-around-sopa-censorship/46425/>

⁶³<https://addons.mozilla.org/en-US/firefox/addon/desopa/>

⁶⁴<http://www.williams-firm.com/CM/Custom/Custom18.asp>

⁶⁵<http://www.williams-firm.com/>

Partners in Love and Law – Top Ten Tips for “Couples in Business and Bed Together”

Wednesday, February 1, 2012



Allison S. Tabor, CPC, CPSM

From courtroom to bedroom, couples in the legal profession are making it work together.

Law school not only helped produce great lawyers; in some cases, love partners. Other legal practitioners found themselves *in Love and Law* later in their careers. Some have decided to hang a single shingle and combine their law practice.

The reasons for combining practices vary. For some it is a way for partners to spend more time together, perhaps due to one partner's unemployment, or the partners wanting to work with someone they know, or with whom they share common goals.

One in five businesses is run by a couple, according to Business Week, and more couples than ever are going into business together. In large part, this trend is due to the weakened corporate economy and the aging of America. Add to that, there is a growing interest in having a balanced family and work life.

Working together can be exhilarating, fulfilling, and challenging! Sharing excitement, inspiration, support and the pursuit of a common lifestyle

change are just a few of the advantages. Many couples in business together find that one plus one equals three. By combining, they become three; “you, me, and now us”.

Successful legal love partners are enjoying many benefits; however, success in love and life together in the legal profession comes easier for some than others. Why? Hopefully, I can help to answer that question. Whether you are considering working with your spouse or already are, you can benefit from reading my, *”Top Ten Tips for Couples in Business and Bed Together.”* I share these tips with the hope that you will find success in business and life as partners in *Love and Law*. So, happy *lawyer-ing* and loving together!

Tip #1 Have a Shared Integrated Vision

A great place to begin is by developing a clear vision that has both partners heading in the same direction toward common goals. Why do you want to work together? What does your ideal business and relationship look like? The more in sync you are with each other, the greater chance for success. Key things to include are: roles and division of responsibilities, your plan for resolving conflicts, working/personal schedules, time off expectations, risk tolerance, compensation, distribution, and reinvestment of profits into the business, and ending a partnership. By having a shared vision and a mutual understanding of expectations, you will increase your chance of success together.

Tip #2 Create a Partnership Agreement

They say doctors often make the worst patients. To that, attorneys understand better than most, the significance of managing expectations through the use of agreements. Every couple in business should have a common sense agreement. The agreement should incorporate the couple’s vision objectives.

Tip #3 Set Healthy Boundaries

As a couple both in business and at home, it is inevitable that the role each plays can get confused at times. Conflict spillover between the roles can be problematic and have an adverse effect on the business and personal relationship. Setting and respecting boundaries is key to enjoying a harmonious relationship, both at home and work. There are no hard and

fast rules. Rather, what is important is to have a mutual agreement as to “what works and doesn’t for each of you” and respect the boundaries established. Some couples find it helpful to create a code word or phrase they use to help constructively attract their partner’s attention when they may be crossing a boundary.

Tip #4 Work at Home Consideration

In some cases, one or both partners may be working from home. Under such circumstances, the boundaries between work and personal can cross quite easily. Some partners prefer not to bring in or discuss work at home, while others enjoy it. The most important thing is that both partners agree on how work communication will be handled at home. If you have a home office, it can actually be helpful to create a designated space for work and keep it separate from personal pursuits. Consider the use of decorative room dividers where walls are not an option.

Personally, we had an off-site office location and I preferred that work not be discussed at home. It was important for me to have some down time, turn work off and enjoy quality time with my spouse. My husband and I agreed that, if we wanted to keep the romance in our relationship, we would have to separate work from home as much as possible. (Business talk at home isn’t considered a form of foreplay, as far as I’m concerned). While we agreed to keep work issues out of the home as much as possible, we knew it was unrealistic to think we could never discuss work at home so we agreed on a plan. Whenever we had a work issue needing attention, we would simply let each other know and then reconvene in our home office to discuss and handle whatever was necessary. This worked extremely well for us for over 20 years, but again, the key is in finding what works best for each couple and then honoring it.

Tip #5 Communicate with Understanding and Respect

“He who knows others is learned. He who knows himself is wise.” Lao Tse. Understand, appreciate, and respect your differences, including your communication styles. There are great tools available to help you better understand your communication style and that of your spouse so that you can be more effective in your communication. Often lawyers pride themselves on being great communicators. Please remember that being a “good listener” is every bit as important as being able to openly and effectively be

a “good talker.” A favorite and effective communication tool that I’ve used for years with my spouse and also with my couples clients in business, is DISC; a personal and professional assessment solution (sample DISC reports are on my website at <http://www.coppiacommunications.com/businesscorporate-teams.html>).

Tip #6 Capitalize on Your Differences

Having different strengths, skills, and styles is an asset. Of course, when you work together, all of the ways that you are different will become apparent. Some of these differences in styles may be welcome, while others may not. Once you’ve learned to better understand yourself and your partner, you can leverage your individual and combined talents for even greater success.

Tip #7 Care in Conflict

“Conflict is inevitable, but combat is optional.” Max Lucado. Couples in business can expect their fair share of healthy differences of opinion; however, your business will require that they be resolved quickly, effectively and constructively. Any conflicts should be resolved in private, maintaining a united front to customers, employees, and business partners. Otherwise, your credibility and effectiveness will be diminished.

Tip #8 Be Flexible and Forgiving

Equally important as having clear understandings, considerate communication, boundaries and strategies, is being flexible. Adapting to changes in circumstances is a necessary skill for any business owner, but even more so when dealing with your life and business partner. The same is true for making mistakes. Mistakes, whether your own or your partner’s, are learning opportunities. Treat them as such, without blame. Forgive yourself and your partner for the inevitable mistakes that you will make.

Tip #9 Have Fun

The legal professional can be serious; working together can also be intense at times. Celebrate being a couple at work. Remember to lighten up and regularly make time for fun! Not only is fun, sex, and romance necessary for a healthy personal relationship, it makes the business more personally rewarding.

Tip #10 Integrate Resources

There is a great deal of information available to help Couples in Business succeed. Commit to embrace helpful resources as part of your personal and professional development together. Just a few relevant books include: *In Business and In Love*, by Chuck and Aprill Jones, *Couples At Work*, by E. W. “Dub” & Janet James, *Couplepreneurs*, by Jean R. Charles and *Sleeping With Your Business Partner*, by Becky L. Stewart-Gross, PhD and Micahel J. Gross, EdD. Also, while not specific to couples in business, a great book for couples to read is *The Five Love Languages*, by Gary Chapman.

Allison S. Tabor, CPC, CPSM, owner of Coppia Communications, is a Certified Professional Coach and Consultant, who has enjoyed a successful business and family life with her husband for 23 years. With her firsthand business ownership and Couple experience, Allison is a uniquely qualified success strategist empowering Couples in Business and entrepreneurs to achieve greater success in their business and life. You can learn more and subscribe to receive her blogs at www.coppiacommunications.com.

The Side Bar: Postino

Wednesday, February 1, 2012

VENUE:

Postino

postinorestaurant.com⁶⁶

LOCATION:

3565 Mount Diablo Blvd., Lafayette, CA.

REASONS FOR GOING:

Wine List

⁶⁶<http://postinorestaurant.com/>

Heated Bar Counter

If the cold weather is getting to you and you are in need of a little comfort, consider meeting a friend at Postino for a glass of wine and some antipasto.

The stylish, old world interior is perfect on a stormy winter's night, and the friendly bar staff will immediately make you feel welcome. The bar top is heated (yes, this is one venue I encourage you to forget your manners and put your elbows on the table) and will get you relaxed in no time.

The wine list is extensive, and all guests from newbies to connoisseurs will find something on the 'per glass' menu to make them happy. My friend and I enjoyed the "Burrata" appetizer plate (\$16) and it was the perfect snack to go with our wine selections.

Warning, this is not the place to go for happy hour deals, blaring music, or to watch the game. This is the place to go when you want a good glass of wine, a nice plate of food, and a cozy, comfortable setting to enjoy same.

Have fun, drink responsibly.

Send your ideas for Happy Hour to Dana Santos at danasantos@comcast.net⁶⁷

MCLE Con Limón

Wednesday, February 1, 2012

In October 2011, CCCBA members traveled to Cancun to sharpen their trial skills with Judge Austin. Taking a study break, the group climbed to the top of the Mayan Ruins at Coba...

⁶⁷[MAILTO:danasantos@comcast.net](mailto:danasantos@comcast.net)



[no Judges were harmed during the filming of this video]

Missed the 2011 Mexico MCLE trip?

Save the Date! The 2012 CCCBA Mexico MCLE Trip is scheduled for October 8 through October 12, 2012

More Details to Follow...

Top Legal Ethics Stories of 2011

Wednesday, February 1, 2012



Carol M. Langford

It is another new year and it is time to look back on the top legal ethics stories of 2011. Not only are the stories interesting, but they portend trends as to how the courts view attorney conduct issues.

First, a number of federal courts last year upheld advance waivers between lawyers and clients pertaining to conflicts of interest that might arise in the future. The opinions deal with the business client and show recognition by the courts that sophisticated clients should be allowed flexibility in how they deal with conflicts. Large firms, of course, support this position, as do lawyers who handle matters for corporate clients. See the Federal Circuit's decision *In re Shared Memory Graphics, LLC*, 659 F.3d 1336, and California decisions *Multimedia Patent Trust v. Apple* (2011 U. S. Dist. Lexis 46237 (April 29, 2011)) and *SEC v. Tang*, N. Dist. Calif. C-09-05146 JCS to see what type of client and waiver will pass muster.

Another interesting legal ethics development is the United States Supreme

Court case *Turner v. Rogers* (Slip Op June 20, 2011). There, the Court held that the 14th Amendment does not categorically require a state to provide counsel for all indigent parents facing a civil contempt hearing for non-payment of child support where the other parent is not represented by counsel. ABA ethics rules favor attorneys providing pro bono services in these areas of law. As many of you know, there has been a movement supporting various forms of state-funded "Civil Gideon" to be established so that indigents would be assured state-provided counsel in matters like divorce, custody and eviction. The movement has been stymied politically and fiscally but its ultimate fate is still up for grabs. California has established a pilot program for Civil Gideon, but in *Guardianship of HC*, 11 CDOS 10019, the California Supreme Court held that a mother did not have a due process right to counsel in a guardianship case.

The most controversial development in ethics last year was the explosion of lawsuits against law schools alleging that the schools had been publishing fraudulent statistics about the post-law school employment of their graduates. For instance, law schools would say a graduate was employed within three months of graduation when he or she was working at a Starbucks making cappuccinos. The schools quickly responded that they had complied with ABA guidelines on reporting employment and the ABA then just as quickly re-wrote its regulations to increase necessary disclosures and close loopholes. In some cases, schools like Illinois and Villanova admitted that they have been "joking the stats" to get admissions candidates. At a cost of \$35,000-\$40,000 per year just in tuition for a private law school, you can imagine how angry students are who entered law school in 2008.

On the criminal front, the ill-conceived prosecution of Glaxo-Smith-Kline in-house lawyer Laura Stevens imploded. Steven's alleged criminal conduct was seen to be ordinary lawyering in the context of responding to administrative demands for information. Apparently the DOJ and the FDA publically stated that they would increasingly target individual corporate executives for criminal prosecution. They alleged that Ms. Stevens authored several letters during an investigation denying that GSK promoted Wellbutrin for off-label purposes. Stevens denied liability and based her defense on the claim that, in responding to an FDA inquiry, she took the advice of law firm King and Spaulding. Her reliance on lawyers' advice negated the accusation that she intended to break the law. So far, there is

no indictment of King and Spaulding and I doubt the SEC wants to take on that behemoth.

It will be interesting to see what new ethics developments 2012 will bring. Perhaps some long-awaited new Rules of Professional Conduct currently sitting in the California Supreme Court? Only time will tell.

Carol M. Langford is an attorney specializing in State Bar defense work and assisting nurses, brokers and doctors in their ethics matters. She is also an adjunct professor of professional responsibility at Boalt Hall and USF School of Law. Thanks to John Steele for his Top Ten Legal Ethics Stories blog.

Thank You for Your Support of the Elder Law Center and the Law Center's Pro Bono Efforts!

Wednesday, February 1, 2012

The Law Center⁶⁸ ("TLC"), and the Elder Law Center⁶⁹ ("ELC"), along with its Board of Directors would like to gratefully thank all the Members of the Contra Costa County Bar Association Sections⁷⁰ that continue to support our pro bono efforts for the working poor and elder population in our community.

In 2011, TLC and ELC assisted over 800 residents in either providing them directly with legal services or by referring them to local agencies and pro bono attorneys that specialize in the needs they have. TLC and ELC have and continue to assist our local social workers and law enforcement when they are seeking guidance on particular issues. TLC and ELC provide proactive outreach presentations to the public through our many Durable Power of Attorney (DPOA) workshops⁷¹ as well as providing information

⁶⁸<http://thelawcenter.cc/>

⁶⁹<http://thelawcenter.cc/the-elder-law-center/>

⁷⁰<http://www.cccbba.org/attorney/sections/index.php>

⁷¹<http://www.cccbba.org/community/free-legal-workshops/powers-of-attorney.php>

