



REMARKS FROM THE PRESIDENT'S DESK -

By: Daren Lipinsky

As a bar, we are a community of advocates. However, we often forget that we are also a community of business owners charged with maintaining a workplace that is respectful and legally compliant. In the wake of Fox News' many, many sexual harassment scandals, it is evident that sexual harassment is still a rampant problem within the workplace. As members of the legal and business communities, it is our responsibility to be fully aware of the environmental pitfalls that can result in creating a workplace that fosters sexual harassment, rather than prevents it. More often than not, employers treat sexual harassment as a single occurrence situation rather than an ongoing environmental issue. If not handled correctly, an employer could end up in multiple lawsuits.

Currently, there are two laws to be aware of when it comes to sexual harassment in the California workplace. The two laws that govern sexual harassment is Title VII of the Civil Rights Act of 1964 and California's Fair Employment and Housing Act ("FEHA"), otherwise known California Government Code section 12940 (J). Section 12940(J) defines sexual harassment as "harassment based on sex or of a sexual nature; gender harassment; and harassment based on pregnancy, childbirth, or related medical conditions. The definition of sexual harassment includes many forms of offensive behavior, including harassment of a person of the same gender as the harasser." The following is a partial list of the type of sexual harassment:

- a) Unwanted sexual advances;
- b) Offering employment benefits in exchange for sexual favors;
- c) Actual or threatened retaliation;
- d) Leering, making sexual gestures, or displaying sexually suggestive objections, pictures, cartoons, or posters;
- e) Making or using derogatory comments, epithets, slurs, or jokes;
- f) Sexual comments including graphic comments about an individual's body, sexually degrading words used to describe an individual, or suggestive or obscene letters, notes, or invitations;
- g) Physical touching, assault, as well as impeding or blocking movement; and
- h) Sexual desire is not necessary.

Under both State and Federal law, an employer will be strictly liable for the actions of a supervisor's inappropriate conduct if the supervisor is acting within the scope of his or her employment when the conduct occurred. Further, an employer may also be

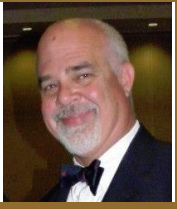
liable for the inappropriate conduct of non-supervisors and third parties (e.g. vendors, clients) if the employer knew or should have known of the offendor's conduct and failed to take immediate and appropriate action to correct the conduct.

Understanding that, what can an employer do to protect itself from lawsuits? To minimize risk, an employer must exercise reasonable care to prevent and correct inappropriate conduct. How can this be done? By following the guidelines set forth by the Department of Fair Employment and Housing ("DFEH"). According to the DFEH, all employers must take the following actions against harassment:

- a) Take all reasonable steps to prevent harassment from occurring including but not limited to developing and implementing an anti-sexual harassment company policy, with a procedure in place in how employees can file complaints and how the employer investigates the complaints;
- b) Once notified of a sexual harassment complaint, inform the complainant of his/her rights and FULLY INVESTIGATE. The investigation must be thorough, objective, and complete. It should ideally be conducted by a third-party familiar with such investigations. Anyone with information regarding the matter should be interviewed. A determination must be made and the results communicated to the complainant, to the alleged harasser and, as appropriate, to all other directly concerned;
- c) Take prompt and effective corrective action if the harassment allegations are proven, the employer must take appropriate action to stop the harassment and ensure that it will not continue. The employer must also communicate the complainant that action has been taken to stop the harassment from recurring. Finally, appropriate steps must be taken to remedy the complainant's damages;
- d) Post the DFEH employment posters in the work place;
- e) Distribute an information sheet on sexual harassment to all employees. Hint: An employer can go on the DFEH's website and download DFEH 185 and distribute it in place of an information sheet; and
- f) Employers who do business in California and employee 50 or more part-time or full-time employees must provide at least two hours of sexual harassment training every two years to each supervisory employee and to all new supervisory employees within six months of their assumption of a supervisory duty.

By putting policies and procedures in place to prevent sexual harassment from occurring, you increase your chances of keeping your employees, reputation, and financial wherewithal protected.

May 2017 ALMANAC



All times Pacific Daylight Time (PDT), which is minus seven hours from UTC (Universal Time Coordinated). May will be another fine month for naked eye sky watching. Jupiter rules the night sky. Check out the waxing Moon near Jupiter about 9:00 p.m. on May 6. Mercury is not visible during May. Venus shines brightly in the eastern dawn sky. Mars is visible at dusk, low in the southwestern sky. Look for Saturn after 1:00 a.m. on the Scorpio/Sagittarius boundary. The May Full Moon is called the “Full Milk Moon” and happens on Wednesday, May 10, 2017 at 2:42 p.m. The Full Milk Moon of 2017 will rise at 7:40 p.m. so, if there is no cloud cover, it will be very bright all night.

Be extra careful out there on Cinco de Mayo, Friday, May 5, 2017. This date commemorates the May 5, 1862 victory of Commander General Ignacio Zaragoza’s scrappy Mexican forces over the much larger and better equipped French expeditionary forces of General Charles de Lorencez. This victory at the Battle of Puebla, broke the French siege of Ciudad Puebla. This victory was a huge morale boost for the Mexican people and source of pride and unity. Some historians contend that if France had prevailed and successfully conquered Mexico, the French would have entered the American Civil War on the side of the Confederacy, which would have been a major problem. Cinco De Mayo is celebrated in America with great enthusiasm. It is not Mexican Independence Day, which is September 16.

There will be Tequila fueled dancing and sobriety check points. Remember to old adage: “One Tequila, Two Tequila, Three Tequila, Floor!” If you plan to celebrate, grab an Uber or Lyft for the ride home.

GARDEN NOTES: You can still have a garden. Really. You can still turn over your beds or containers. Any weekend in May would be an ideal time to start. Even if you have a couple of tomatoes and a basil plant or two, your efforts will be rewarded. Throw out some Watermelon or Pepper seeds. You can try Sweet Corn in a raised bed. Sweet Corn is not a good neighbor, so the entire bed would be a corn field. Sweet Corn loves water and nitrogen. When the silks appear, liberally apply Cayenne or Chili powder to the silks. This will deter corn worms and have no impact on the flavor of your corn. Harvest the ears when the silks have completed dried out and are brown.

EAST MEETS WEST: On May 25, 2017 there will be the annual joint meeting of the Western San Bernardino County Bar Association and the Eastern Los Angeles County Bar Association, at Rainbow Canyon Ranch in Azusa. An MCLE hour, a hosted Bar, and fabulous food by Canyon City BBQ. For further details please see this month’s WSBCBA bulletin.

RECIPE OF THE MONTH: Albacore Sandwich Mix. Mother’s Day, Sunday, May 14, 2017. I am truly blessed. Even though we lost my mom in 1996, we still have my mother-in-law, Mary Gatti. Mary is a kind and generous woman. She is a world class horse trainer and successful business woman. Here is her simply fabulous recipe for Albacore Sandwich Mix. This is enough for 12-14 sandwiches. You can also serve a scoop for a “big salad” or make a killer tuna melt in your cast iron skillet. So rather than taking mom out to a crowded brunch, consider having a fancy lunch at home. A crisp salad with spring mix, julienned carrots, thinly sliced roasted beets and crumbled goat cheese tossed in a balsamic vinaigrette. Potato Leek soup (cold version) would go also be great. Your favorite White Wine or a crisp Rosè will work quite nicely with this.

Mary Gatti’s Albacore Sandwich Mix

(3) 12 oz. cans of Albacore (Water packed only)
Starkist, Chicken of the Sea or Bumblebee.
(2) 8 oz. cans of Water Chestnuts, finely chopped.
(1) cup of finely diced Celery.
24-30 oz. of Best Foods Mayo.
(1) 8 oz. can of Salted Cashew Pieces (Planter’s are the best).
1/4 cup finely minced white Onion.
Wheat Bread or Rye Bread, toasted if you like or go for the Tuna Melt (with Swiss or Jack cheese).
Lays Potato chips. Ruffles are fine as well.
Mix all chopped ingredients together with Mayo. Drain Albacore well and combine. If you have any left, cover tightly with plastic wrap or sealed container and it will keep in the fridge for two or three days. Have a Happy Mother’s Day.

Buon Appetito! Tony Sears

Welcome WSBCBA New Members

J.C. Allen, Esq. - Newman & Allen
Aaron M. Davidson, Esq. - Friley Law Firm
Geoffrey Newman, Esq. - Newman & Allen
Edward Palmer, Esq. - Edward Palmer at Law
Marivel M. Zialcita, Esq. - MMZ Law

Joseph B. Campbell Inn of Court

By President, Donna Connolly

I am covering two meetings (March and April), so I have to cut down on some of the detail. Find me...call me...if you want to learn more!

The Inn's **March Membership meeting**, per our usual practice, gave way for the annual Joint Inns of Court Dinner. We celebrate with the other Inland Empire Inns, all of which are based in Riverside County. Our host this year was the Slaughter-Roemer Inn (Palm Desert). The venue, food and presentation were terrific!

California's Chief Justice Tani Cantil-Sakauye led a three-person panel that also included Appellate Court Justices Douglas Miller and Marsha Slough. They talked about a number of issues facing our courts and answered questions posed by the moderator and other attendees.

To kick things off, the Chief talked a bit about a letter she had crafted and sent to Attorney General of the U.S. Jeff Sessions and Homeland Security chief John Kelly. The bare-bones essence of the letter was a request that I.C.E. stop making immigration-related arrests at courthouses in California. She suggested the courts be treated as "sensitive" areas, so that victims, witnesses and persons seeking assistance from the courts will not be driven away due to the fear of being arrested.

The letter – as well as the response from A.G. Sessions, Secretary Kelly and the Chief's later rebuttal – is certainly worth reading word for word.

The panel also offered remarks on/or answered questions about these topics:

The declining bar pass rate in California and coming changes or adjustments to the bar exam.

The transfer of several bench officer positions from Northern California counties to Riverside and San Bernardino courts.

The Governor's disappointing budget for the courts and the need to educate state legislators (the majority of whom are not attorneys, much unlike past years) about the operations and costs of dispensing justice.

In early April, our monthly meeting and program got rave reviews and the always-appreciated one unit of MCLE (Ethics). The title was "Twelve Angry Tweets" and was a reboot of the classic movie *Twelve Angry Men*.

The presentation was all about social media – LinkedIn, Facebook, Twitter – and its use in determining juror bias, likes and dislikes. Dr. David Canon, jury consultant and owner of Trial Innovations, was a guest presenter. Part of the program distinguished between "passive" versus "active" review of a juror's social media presence; e.g., driving by the juror's house OR looking at his/her Facebook page (passive), versus knocking on the juror's door at home OR friending the juror on Facebook (active). The latter (active) examples can raise serious ethical issues.

The program fully involved the attendees, exploring an attorney's responsibilities once s/he becomes aware of bias via social media. The evening ended with a series of sample tweets (all made up) posted by jurors and actions taken by the attorney once he/she became aware of the tweet(s). Each member got a paddle with ETHICAL printed on one side and UNETHICAL on the other. After being presented with a sample tweet by a juror and a subsequent action/response by an attorney, each member voted the action as Ethical or Unethical. There was lots of discussion, much of it centered on the California Rules of Professional Conduct, Rule 5-320 "Contact with Jurors."

In case you want to start a discussion at your firm, with a colleague while waiting your turn in court, or at your dinner table, here is one sample tweet (in real English!) and the three questions posed to our membership for voting and discussion:

Tweet (from a prospective juror): "I don't know – should I tell someone? I had a wreck like this one last year & my insurance refused to pay me. I don't want trouble. I want to be a juror to help this victim collect from defendant."

Fact: You saw this tweet from a prospective juror during voir dire and you...

Question 1: Requested this potential juror's (#3) removal for cause. ETHICAL or UNETHICAL?

Question 2: Asked #3 targeted questions to expose bias. ETHICAL or UNETHICAL?

Question 3: Did nothing...you represent the plaintiff! ETHICAL or UNETHICAL?

[Many thanks to members Linda Lindsey and Steven Bell for doing the real work in summarizing the April program]

THIS INN YEAR IS NEARING IT'S END. If you are thinking about membership, we invite you to attend the May or June meeting to get a taste of the Inn of Court experience. Just show up, pay the one-meeting introductory price of \$32 and have dinner, socialize with colleagues and earn a unit of MCLE. If you like it "that much" you can become a member for the 2017-2018 Inn year. The May and June meetings are on the second Wednesday of each month, 5:30 p.m., at Castaway Restaurant in San Bernardino. Join us!



ATTENTION NEWLY ADMITTED ATTORNEYS

If you would like mentoring, please contact the Western San Bernardino County Bar Association at (909) 483-0548 or email at mail@wsbcbca.org and request an attorney mentor. We are here to help you succeed!

May Calendar 2017

May 1, 2017 - May Day
 May 1, 2017 - Labor Day (Mexico)
 May 4, 2017 - National Day of Prayer
 May 5, 2017 - Battle of Puebla Day (Mexico)
 May 10, 2017 - Mother's Day (Mexico)
 May 14, 2017 - Mother's Day
 May 20, 2017 - Armed Forces Day
 May 22, 2017 - Victoria Day (Canada)
 May 25, 2017 - East Meets West, Azusa
 May 26, 2017 - First of Ramadan @ Sundown
 May 29, 2017 - Memorial Day

The Correlation Between Technology and Police Misconduct

By *Fernando Bernheim, WSBCBA Board of Director*



With news stories published to the world with the click of a button and the widespread use of social media, we consider how it affects our legal system and law enforcement regulations. Technology undeniably makes our lives easier. Solving problems can be as easy as typing a question into a search engine. Technology also opens our eyes to injustice throughout the world. One begins to wonder whether our society benefits from technology when grave injustice and racial tension is prevalent in today's society. It is also worth mentioning that the constant social media presence pulls at the heartstrings of Americans who feel saddened and confused and are sometimes misinformed on the truth. Many people feel that the present condition of our nation is in turmoil and history seems to repeat itself.

This topic seems fitting as the 25th anniversary of the Rodney King verdict and the Los Angeles Riots approaches on April 29th. A passerby captured four Los Angeles Police Department (LAPD) officers on video as they physically beat an African American man, Rodney King. After nearly an all white jury acquitted the four LAPD officers for the beating of Mr. King, complete chaos and anarchy broke out in the city. The riots, lasting over five days, left 50 people dead, over 2,000 injured, and an estimated billion dollars in damage. The streets of South Los Angeles were filled with looters and bloodshed as buildings went up in flames.

If you were to pass by the area of Florence Ave and Normandie Blvd in Los Angeles, many of the buildings affected by the riots are now non-existent as if they were wiped off the map. The riots destroyed many lives of innocent people as complete chaos swept the streets of Los Angeles and was no match for the LAPD, who were understaffed and unprepared for the gravity of the situation. This incident seemed overdue to many as tensions of African Americans in Los Angeles hit an all time high, as they felt oppressed in poor neighborhoods, targeted by the police and underrepresented.

A passerby's home video tape went public and shed light on the problem of excessive force used by law enforcement not just in Los Angeles, but also across the nation. In present day, cell phones, social media outlets, digital cameras and even live streaming enables just about anyone to be able to broadcast what is in front of them.

The increased use of social media and technology correlates to the increase of lawsuits against law enforcement in California and across America. In San

Bernardino County, more than one-fifth of the \$62.8 million San Bernardino County paid to settle civil lawsuits from 2008- 2014, named the Sheriff's Department as a defendant. A review the county's lawsuits from 2008-2014 revealed that \$13.9 million was paid to plaintiffs in litigation involving the Sheriff's Department.

While many of us think that these statistics do not affect our own lives, the reality is taxpayers are paying for police misconduct. Early findings show that during the last five years a combined \$16.6 million was spent by taxpayers in just four cities alone to settle 122 police-misconduct lawsuits. Those cities are: Indianapolis, Austin, San Jose and San Francisco.

With lawsuits and settlement payouts on the rise, it seems that there will be no end to the police misconduct and social injustice present in today's society. Many wonder whether this pattern of injustice for civil rights forecasts the possibility of another violent riot.

Many law enforcement agencies now utilize body cameras on officers which provide transparency in an officer's response to an incident. Body camera footage also provides clarity for departmental review and as a result, helps to implement new procedures or protocol. Surveillance devices such as body cameras, seek to provide clarity on incidents between civilians and police officers. This benefit helps establish trust in communities and positively influences the public's view and often critical perception of law enforcement officers.

The Los Angeles Police Department is spending \$57.6 million to outfit 7,000 officers with body cameras projected through 2018 while about 2,000 officers currently have the cameras. In the midst of several high-profile incidents involving the use of force by police, the use of surveillance devices often scrutinizes police behavior and may have some drawbacks. People are often quick to jump to conclusions after watching the dissemination of a video within minutes after it is broadcasted on the web. The ability to access the source so easily exacerbates peoples' emotions and allows them to make the over-generalization before law enforcement is able to investigate or gather evidence.

It is clear that the use of cellphones and body cameras on officers has benefits and drawbacks. Nonetheless, the use of cellphones or body cameras on officers is a step in the right direction in combatting social injustice as people formulate their own thoughts and perceptions of events that occur between civilians and police officers.

Eastern Bar Association, jointly with the Western San Bernardino County Bar Association, present



1 Hour MCLE

State of the Courts' Electronic Filing System



Speaker:
Honorable Salvatore Sirna
 Asst. Supervising Judge
 Los Angeles (Pomona) Superior Court

THURSDAY - May 25, 2017

5:30 - SOCIAL GATHERING - HOSTED BAR

6:00 - "CANYON CITY BBQ" - BUFFET

6:30 to 7:30 - MCLE PRESENTATION

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COST: \$40.00/WSBCBA/EBA Member \$60.00/Non-Member

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NAME: _____ PHONE NO.: _____

FIRM: _____ NUMBER ATTENDING: _____

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Hannemann Law Firm

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David H. Ricks, Esq.
Inland Empire Law Group

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Thursday, June 1, 2017
12:00 noon - 1:30 p.m.

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- **How to Get a Receiver Appointed**

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**Speaker:
Matthew Taylor, Esq.**

Sandwich Choice:

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- Roasted Turkey**
- Chicken Salad**
- Italian**
- Ham & Swiss**
- Tuna Salad**
- Vegetarian**

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**Thursday, June 22, 2017
12:00 noon - 1:30 p.m.**

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The “Jennifer Brooks Lawyer of the Year Award” is given each year by the Western San Bernardino County Bar Association to a local lawyer who demonstrates the finest qualities of our profession and long-term commitment to our community.

An award is also given each year to a Legal Assistant who exhibits the utmost in professionalism, experience, and assistance, not only to his/her employer, but also to the legal community and who goes above and beyond the call of duty.

If you know of a lawyer and legal assistant who merits these awards, please use this form to make your nominations and return it to the WSBCBA no later than June 2, 2017 by 4:30 p.m.

NOMINATION FORM

Name of person making nomination (optional): _____

Phone number of person making nomination: _____

If you are an attorney, your state bar number: _____

Name of Lawyer nominee: _____

Address of nominee: _____

Qualifications upon which nomination is based: _____

Name of Legal Assistant nominee: _____

Address of nominee: _____

Qualifications upon which nomination is based: _____

REMEMBER TO FAX OR EMAIL THIS FORM ON OR BEFORE June 2, 2017

FAX: (909) 483-0553 EMAIL: mail@wsbcbba.org

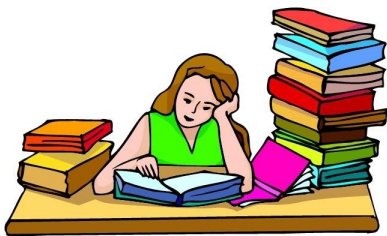
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A professional headshot of Greg Rizio, a middle-aged man with short, wavy grey hair, smiling warmly. He is wearing a dark suit jacket, a light blue dress shirt, and a blue patterned tie. The background is a blurred indoor setting with a wooden door and greenery.

Greg Rizio

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NEWS BULLETIN

Save the Dates

East Meets West

May 25, 2017

5:30 p.m. - Social Gathering
6:00 p.m. - Canyon City BBQ
6:30 p.m. - 7:30 p.m. MCLE
Rainbow Canyon Ranch
Azusa, CA

Bench Bar BBQ

September 15, 2017 @ 6:00 p.m.
Rancho Cucamonga, CA 91739

**Installation of Officers
& Awards Ceremony**

October 5, 2017 @ 5:30 p.m.
DoubleTree by Hilton
Ontario, CA 91764

Effective Use of Discovery at Trial MCLE

June 1, 2017 @ 12:00 noon - 1:30 p.m.
WSBCBA Conference Room
Rancho Cucamonga, CA 91730

Holiday Celebration - Toys for Tots

December 8, 2017 @ 6:00 p.m.
Redlands, CA

Introduction to Receiverships MCLE

June 22, 2017 @ 12:00 noon - 1:30 p.m.
WSBCBA Conference Room
Rancho Cucamonga, CA 91730