



# CITATIONS

SEPTEMBER - TWO THOUSAND TWENTY ONE

## ABSOLUTE CHAOS: Issue Spotting California's Landlord-Tenant Laws in the Time of COVID-19

by Leslie McAdam

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## PRESIDENT'S MESSAGE

by Marc D. Anderson



We bought a pop-up tent trailer in 2013. I was always a proud tent camper, but after tent camping with our young kids a few times Kristi and I liked the perks a tent trailer offered: it got us off the ground, gave us more room, could be kept packed and ready-to-go, but was still able to do the off-the-beaten-path camping we like. Really, a tent trailer is a rustic cabin you can tow.

Ours is a 1994 Coleman Fleetwood Destiny Royale. Don't let the fancy, burlesque-dancer name fool you – it's basic. We bought it from a nice couple in Moorpark. They were the original owners and were selling because their kids were now in college. When we went to see the trailer, they told us of their family adventures with a glimmer in their eyes and a hint of nostalgia in their voices. Stickers on the trailer confirmed their travels. We could tell it had been well-loved and well-used. We bought it, named it Snap Crackle Pop and started putting our own stickers on it.

Snap Crackle Pop has served us well. We've taken it to fifteen states and more than 50 campgrounds. It's done two trips up the California coast, a volcano tour of California, Oregon and Washington and a trip to California's gold country. It's been to National Parks and state parks, to beaches, deserts, prairies, woods and mountains. It's seen high winds, thunderstorms, snow, hot days and cold, cold nights.

Our biggest adventure was a month-long cross-country trip in 2014. Workwise I had planned that trip for six months so it would truly be time off. I got to share



with my family my favorite places around Lake Superior – Black River Harbor on Michigan's Upper Peninsula, Bayfield, Wisconsin and Grand Marais, Minnesota. We visited Minnesota's Iron Range, Fort Abraham Lincoln State Park in North Dakota, Mount Rushmore in South Dakota, and Devil's Tower in Wyoming. If you ever have the chance to go to the National Historic Trails Interpretive Center in Casper, Wyoming, do it. It's one of the best visitor centers we've been to. Taking that month off was one of my best life and parenting decisions.

This summer we took Snap Crackle Pop on a week-long trip to Mammoth Lakes and Bishop Creek. Kristi's sister, Angela, and a friend joined us in Angela's surf van. My daughter, Libby, has been taking riding lessons for a few years now, so we did a four-hour trail ride. Blackie, Trout, Handy and Cooper expertly navigated steep, rocky trails to alpine lakes and meadows. I brought up the rear and tried my best to imitate Libby's perfect riding posture.

We swam in June Lake, Convict Lake and Lower Lamarck Lake. Lamarck Lake is at 10,500 feet, so the water was brisk and the swim short. But it felt great after the strenuous hike to get there.

My son, Bodie, and I spent a day mountain biking at Mammoth Mountain. We'd done some riding together at Sycamore Canyon and Cheseboro Canyon, but this was his first time riding a full-suspension bike. We did a few short trails to practice some skills and then a long, easy trail down to the



Village. I thought he was ready so we got on the gondola for the ride to the top and the long, intermediate trail back to the base. The ride challenged him, but he rose to it, and was all smiles. We rode the gondola twice more and I was amazed at how much his riding improved from the beginning of the day to the end.

Bodie's highlight, though, was driving a car for the first time. He drove for about fifteen minutes on a mostly straight fire road getting a feel for the gas and brake. It was exciting for all of us.

Kristi was driving us home when Snap Crackle Pop blew a tire. We were just south of Olancho – the middle of nowhere. I changed the tire in the 98-degree heat and then we nursed the mostly flat spare 60 miles to the nearest air compressor.

Snap Crackle Pop is tucked back in our garage awaiting new tires and new adventures.



*Marc D. Anderson is a lawyer with Hiepler & Hiepler, APC, in Oxnard. He represents plaintiffs in personal injury and wrongful death cases.*

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# ABSOLUTE CHAOS: Issue Spotting California's Landlord-Tenant Laws in the Time of COVID-19

by Leslie McAdam

The ability of California landlords to terminate a periodic residential tenancy via a 60-day notice—**without further analysis**—is now a thing of the past. Couple the new housing rights law (discussed below) with federal, state and local COVID-19 eviction moratoria, and terminating a tenancy becomes beyond complicated. The short story: do the research and check local ordinances in addition to federal and state law before advising a client.

Many California lawyers did not know that California's Tenant Protection Act of 2019 took effect January 1, 2020—just before the COVID-19 pandemic changed all our lives. With important exceptions, that law created a new requirement of **"just cause" to evict a month-to-month tenant** who has "continuously and lawfully occupied a residential real property for 12 months." (Civ. Code, § 1946.2, emphasis added.) Also, the 2019 Act implemented **rent control** (five percent plus cost of living, or ten percent, whichever is less), though the rent control provision generally does not apply to new housing or to single family residences. (*Id.* at § 1947.12.)

It's important to read what the 2019 Act covers, because it does not apply to every residential property. The most important exemption is **single family residences** not owned by a real estate investment trust, corporation, or LLC with a corporate member. The act also does not apply to **new construction** (certificate of occupancy within the last fifteen years) and a few other kinds of dwellings.

Assuming that the act applies, "just cause" to terminate a tenancy comes in two varieties: at-fault or no-fault. Some of the specified **at-fault** causes are what you would expect: default in payment of rent, breach of material lease term, nuisance or waste, criminal activity by tenant, and subletting or assignment if the lease prohibits this. **No-fault** causes for eviction include the owner's intent to occupy or have family member occupy the property (but for leases entered after July 1, 2020, this requires a written lease provision or written agreement by the tenant), withdrawing the property from the market, owner compliance with a governmental habitability order, and intent

to demolish or substantially remodel the property. (See Civ. Code, § 1946.2.) **No-fault termination requires payment of relocation expenses or waiver of the final month's rent, with important deadlines.** Thus, once a tenant has lived in a covered residential property for more than twelve months, a landlord must perform the just cause analysis above prior to issuing **any** notice. In the case of curable defaults, the landlord may also be required to give two notices.

To repeat: This was the brand new law before COVID-19 struck. Once COVID-19 hit, California implemented statewide emergency measures that at first halted **all** evictions except for health and safety reasons. At the federal level, the CDC issued an eviction moratorium that was later held to be unconstitutional by at least one court; recently it has been amended and reissued. Meanwhile, California cities and counties adopted so many different laws that the right to evict a tenant (both residential and

commercial) varies depending on city limits and county boundaries. What is the case in Los Angeles County may be vastly different from Ventura County, and there are variations among the cities in Ventura County. As a practical matter, it can be difficult to find the most recent updates on local ordinances, and in some cases practitioners should contact the municipality to find out if any moratorium is still in effect. The statewide eviction moratorium for residential property for COVID-19 related debt has superseded some, but not all, local provisions, and some municipalities provide greater protection than the statewide law.

The statewide legislation (Code Civ. Proc., § 1179.03.5) governing evictions until Oct. 1 borrows the "just cause" language from Civil Code section 1946.2, apparently even if the property is not otherwise subject to that section, i.e., a single family residence. It also severely restricts terminating a

*Continued on page 7*

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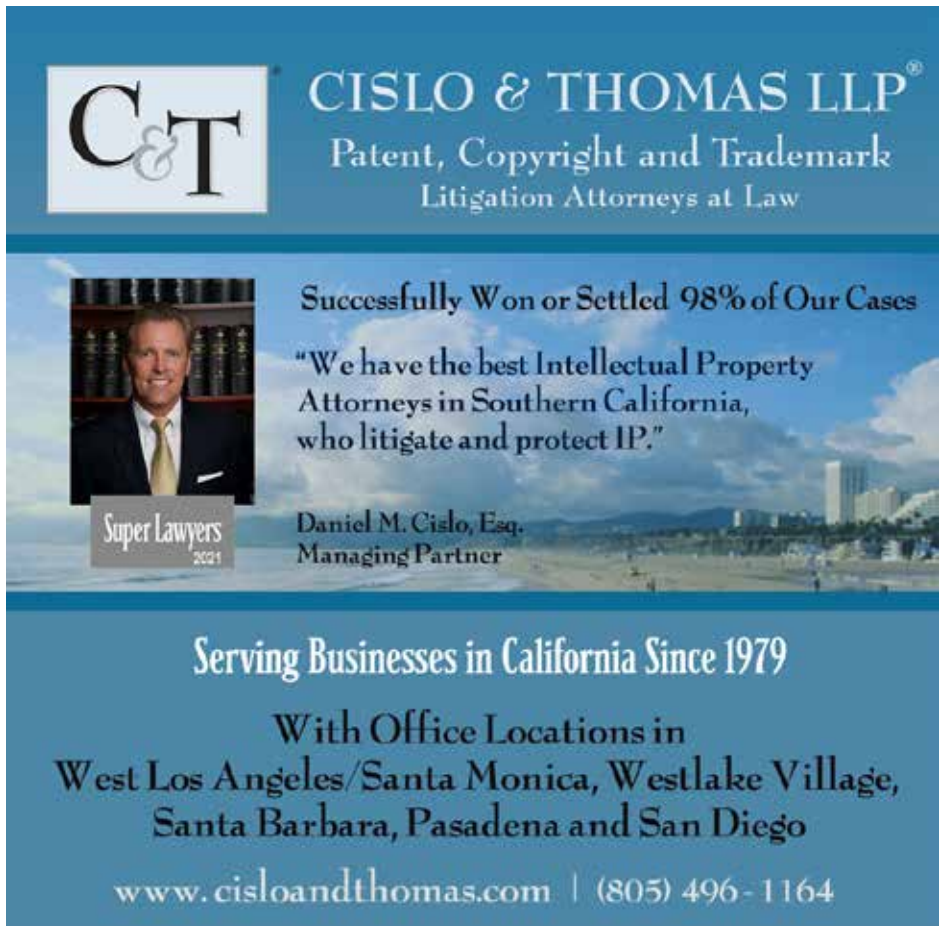
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**ABSOLUTE CHAOS: Issue Spotting California's Landlord-Tenant Laws in the Time of COVID-19**

*continued from page 5*

residential tenancy for COVID-19 related debt, at present until Oct. 1.

Thus, landlords who desire to terminate a tenancy have to go through the analysis of whether the property is covered under the Tenant Protection Act of 2019 **in addition to** dealing with any federal, state or local eviction moratoria.

**So, how do you advise a client? You first need to know the following:**

- Where is the property?
- Is it residential or commercial property? While California's statewide legislation only places an eviction moratorium on residential property, in some municipalities there are also protections for commercial property.
- If it is residential, what type of property is it? Single family, apartment, condo, duplex? How long has the tenant lived in the property? Who is the owner? When

was the property built? (In other words, is it subject to the Tenant Protection Act of 2019?)

- What is the reason for the eviction? If it's for non-payment of rent, when did the tenant default? If it predates COVID-19, the eviction may be able to go forward, depending on the municipality.
- Does the lease contain any special language regarding notice?

After knowing the answers to those questions, a practitioner needs to research if the property is subject to any federal, state or local eviction moratoria. Even if it is not, it might be subject to the Tenant Protection Act of 2019. The advice is to research the statutes and ordinances every time, because they are changing at breathtaking speed. An example: it appears that the Los Angeles County eviction moratorium ordinance has been amended at least nine times in the past fourteen months. Don't rely on an outdated version.

A logical worry of landlord clients is about tenants paying rent. First, assure them that tenants are still legally required to pay rent. Just because they cannot be evicted now does not mean they do not owe the debt. Second, there is eviction relief available at the statewide level for landlords and tenants that few are taking advantage of: [https://housing.ca.gov/covid\\_rr/index.html](https://housing.ca.gov/covid_rr/index.html).

The pace of change of landlord-tenant law and the complications due to the various local regulations is truly breathtaking. The only safe course of action is to check the law every single time before advising a client.



*Leslie McAdam is a partner at Ferguson Case Orr Paterson, LLP in Ventura. She handles business, real estate, employment and commercial and residential unlawful detainer matters.*



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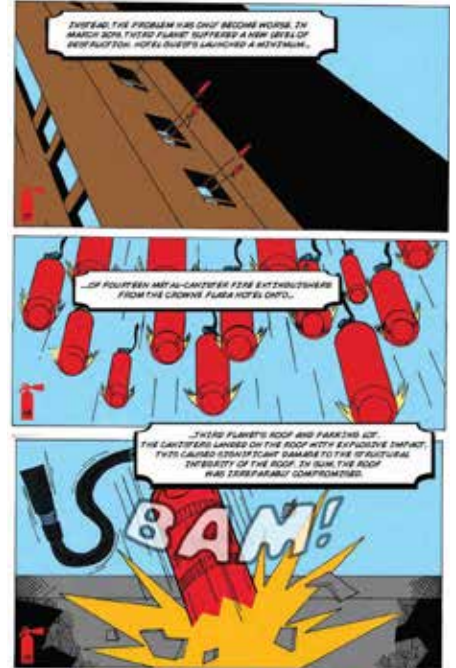
# WE READ SO YOU DON'T HAVE TO

Think about the last time you wanted to put something creative into your pleadings. Not always a great idea. But the case now known as *Third Planet v. Crowne Plaza* does it extraordinarily well.

*Third Planet Sci-Fi and Fantasy Superstore* claims “to be the longest continuously running sole proprietorship comic bookstore in the nation” as well as the country’s first comics superstore. Its graphic novel of a complaint alleges that the Hotel, which “towers over its humble one-story neighbor” knows about and allows all kinds of crimes, and that Hotel guests throw lighted cigarette butts, ceramic mugs, plates, silverware, bottles, cinder blocks, luggage racks and ladders, not to mention “fourteen large metal-cannister fire extinguishers” onto Third Planet’s parking lot and roof. (The complaint also adds interesting contentions about “the spirit and grit of Houston” and the professional bowling titles of the plaintiff who owns the Third Planet site.) “Then came the rain,” says paragraph 19.

Above The Law is one of many websites linking to a full copy of the petition: <https://abovethelaw.com/uploads/2021/06/Comic-Petition.pdf>. The graphics start at

page 6. According to NPR, “Third Planet v. Crowne Plaza” is now its own standing publication. And anyone who wants a copy will soon be able to buy one.”



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With sadness, CITATIONS notes the passing of retired Judge **Colleen Toy White** Aug. 10. An Oklahoma native, Judge White began her legal career prosecuting misdemeanors, and rose to be second in command of the District Attorney's office before her appointment to the bench in 1994. Judge White received the prestigious Aranda Access to Justice Award from the California Judicial Council in 2016 and Women Lawyers of Ventura County's Legacy Award in 2017. <https://www.vcba.org/wp-content/uploads/2021/08/Women-Lawyers-Honor-Colleen-Toy-White.pdf>. She initiated several Superior Court programs including the Dependency Drug Court and an early version of the Family Law Self-Help Center. In 2019, the Ventura Superior Court honored Judge White again, renaming the Ventura County Veterans Intervention Court the "Judge Colleen Toy White Veterans Treatment Court."



CITATIONS also mourns the death of **Edward Lacey** last March. Lacey was a teacher who actively coached high school Mock Trial teams. He was frequently seen walking around Ventura with his late wife, former Ventura County Supervisor Susan Lacey.

**Court mask mandate.** Face masks are now mandatory for **everyone** over two years old entering any Ventura County Superior Court courthouse, courtroom or court facility, regardless of vaccination status, but not the internal offices of the District Attorney or Public Defender. Masks with valves, neck gators, bandanas and handkerchiefs are not acceptable. Face shields shall not be used without masks unless required by a physician. For more information about exemptions, removal of masks when they are required, seating and other physical distance rules, access to clerk's offices and self-help centers, document filing, live-streaming, and other pandemic-related issues, please see Ventura Superior Court Administrative Order 21.14.



**John H. Howard** of Lowthorp, Richards, McMillan, Miller & Templeman, has been named trial lawyer of the year by the California Chapter of the American Board of Trial Advocates (CAL-ABOTA). Howard has handled a wide range of issues, including catastrophic property losses, fire and flooding, campus safety, retail store security abuses, sexual abuse, car, bus and train accidents, and workplace discrimination.



The Litigation Section of the California Lawyers Association has named **Wendy Cole Lascher** of Ferguson Case Orr Paterson, LLC its 2021 recipient of its annual Appellate Lawyers Hall of Fame Award.



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# WHERE HAVE ALL THE PARALEGALS GONE?

by Valarie Grossman

No surprise that 2020 changed the way people work—remotely. Back in the office or not, many local firms are finding a new challenge when they struggle to find paralegal help. Competition is intense for paralegals.

**Craig Smith**, program director for the UCSB Extension Paralegal Studies Program, says graduates receive multiple job offers immediately upon graduation, if not beforehand. Simultaneously, employed paralegals are enjoying unprecedented offers from other firms attempting to steal them away. According to Smith, the UCSB program receives job postings two or three times a month, and none of their graduates are struggling to find jobs. “It is an employees’ market for sure,” he says.

Employees in many professions are no longer willing to return to pre-pandemic ways of working. Millions choose to quit rather than return to their previous offices, the BBC reports. Executive recruiter Kathy Whalen notes that the phenomenon seems to be exacerbated in the paralegal job market. During the pandemic, many services that paralegals provide transitioned to remote platforms, such as electronic filing and remote call forwarding options. Paralegals proved that nearly an entire industry could adapt to a new remote work environment. “Paralegals are probably one of the most versatile law office workers, and much of their work can be done from anywhere,” says Evan Haas, Associate Professor of Law and Coordinator of the Paralegal Studies Program at Oxnard College.

Now, many of those professionals who proved they could do their job remotely are being asked to give up their newly found flexibility and return to an old way of working, but employees’ needs and preferences have changed. Law firms need to adjust to the new normal.

“Many people enjoy working from home and some firms are realizing that a business can flow differently than it did in the past,” says Whalen, who is an expert regarding the job climate in the local legal community. She explains that law firms that are more rigid in their work structure will continue to struggle to compete for labor. “Paralegals are now prioritizing work/life balance and flexibility over salary; law firms need to

keep up.” Traffic is worse than it used to be, and the amount of life stress is higher. As such, paralegals need more flexibility and to feel more that they are an integral part of a team. It is no longer just about the money.

“Paralegals need to be treated well,” says Tami Spencer, paralegal for Norris Legal Group in Camarillo. Paralegals “need to feel that we are appreciated and have a good work environment.” She says paralegals are more willing to look for more fulfilling work if they are not satisfied with their current jobs, and they are no longer limited to the local area.

The U.S. Bureau of Labor Statistics projects the job outlook for paralegals to grow more than twice the national average for other professions. At the same time, women now outnumber men in law schools. Many women now taking the bar exam likely would have been paralegals a generation ago, but the glass ceiling is now shattered, which in turn allows legal secretaries and paralegals to be more discerning in their employment.

Law firms around the country are likewise willing to hire people outside their immediate area. This causes local law firms to compete with firms in San Francisco, or even Texas, to acquire talented paralegals. Now paralegals do not have to sacrifice the time and expense of commuting to make more money or acquire better benefits in other areas. They can benefit from a job change without leaving the comfort of home. To exacerbate this, Ventura County directly competes with the paralegal employment market in neighboring Los Angeles County, Haas reports. Some graduates of the Oxnard College paralegal program have seen salaries in Los Angeles roughly \$10,000 higher when compared to similar positions here in Ventura County.

## So what can a law firm do to be competitive when hiring new paralegal talent?

First, post the job opportunity with local paralegal programs. You can contact the UCSB Certificate program at [craig.smith@professional.ucsb.edu](mailto:craig.smith@professional.ucsb.edu) and submit jobs through Oxnard College on their online job board. This is a great way to let local talent know you are looking. It is also beneficial

to contact local recruiters who specialize in legal job placement so they can connect you with the right candidate.

Next, make the position as attractive as possible. “If you want to attract talent, you have to have a benefits package worthy of that talent,” says Haas. The traditional way to do this is through a higher salary, but this is no longer enough. Increasingly paralegals are prioritizing other benefits such as flexibility in work schedules, the ability to work remotely, competitive vacation time, and support of professional development.

Technology also plays an important role in attracting talent. “Those working on paper are not going to attract new talent,” says Whalen. Being paperless and cloud-based are both attractive to the new paralegals entering the job market. Paralegals are leaving jobs without adequate technology for law firms with more advanced technology as it is more efficient and makes their lives easier, says Haas.

Another area often overlooked is office culture. Many employees are returning from over a year working from the comfort of their own homes, so it is important to make the office pleasant. Employees are looking for positive organizational culture. Identify and reaffirm what makes your firm a great place to work and create opportunities to promote personal connections amongst the staff. Employees want to feel they are an integral part of a team, not just another employee. Office culture is essential; make sure your team feels appreciated. Overall, paralegals are an integral part of our business. Offering a solid benefits package, telecommuting options, and having a positive office culture will help attract talented paralegals to your firm.

It turns out the paralegals never left, they are just looking for the right opportunities.



**Valarie Grossman** is a Ventura County attorney and VCOL graduate focusing on civil litigation. She can be reached at (805) 402-3558.



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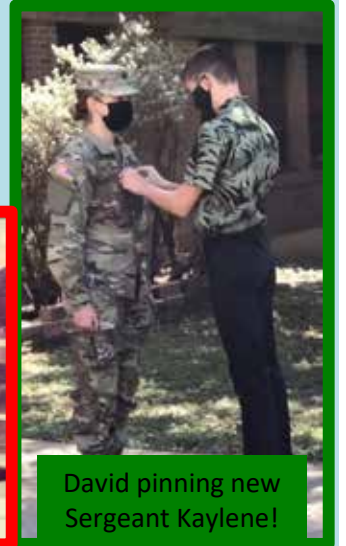
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David pinning new Sergeant Kaylene!



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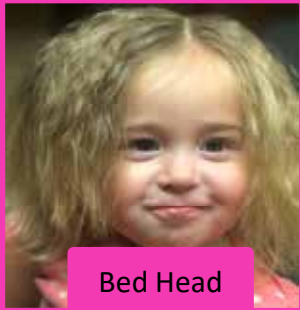
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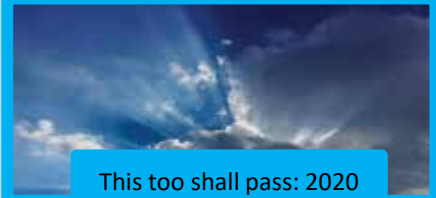
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