



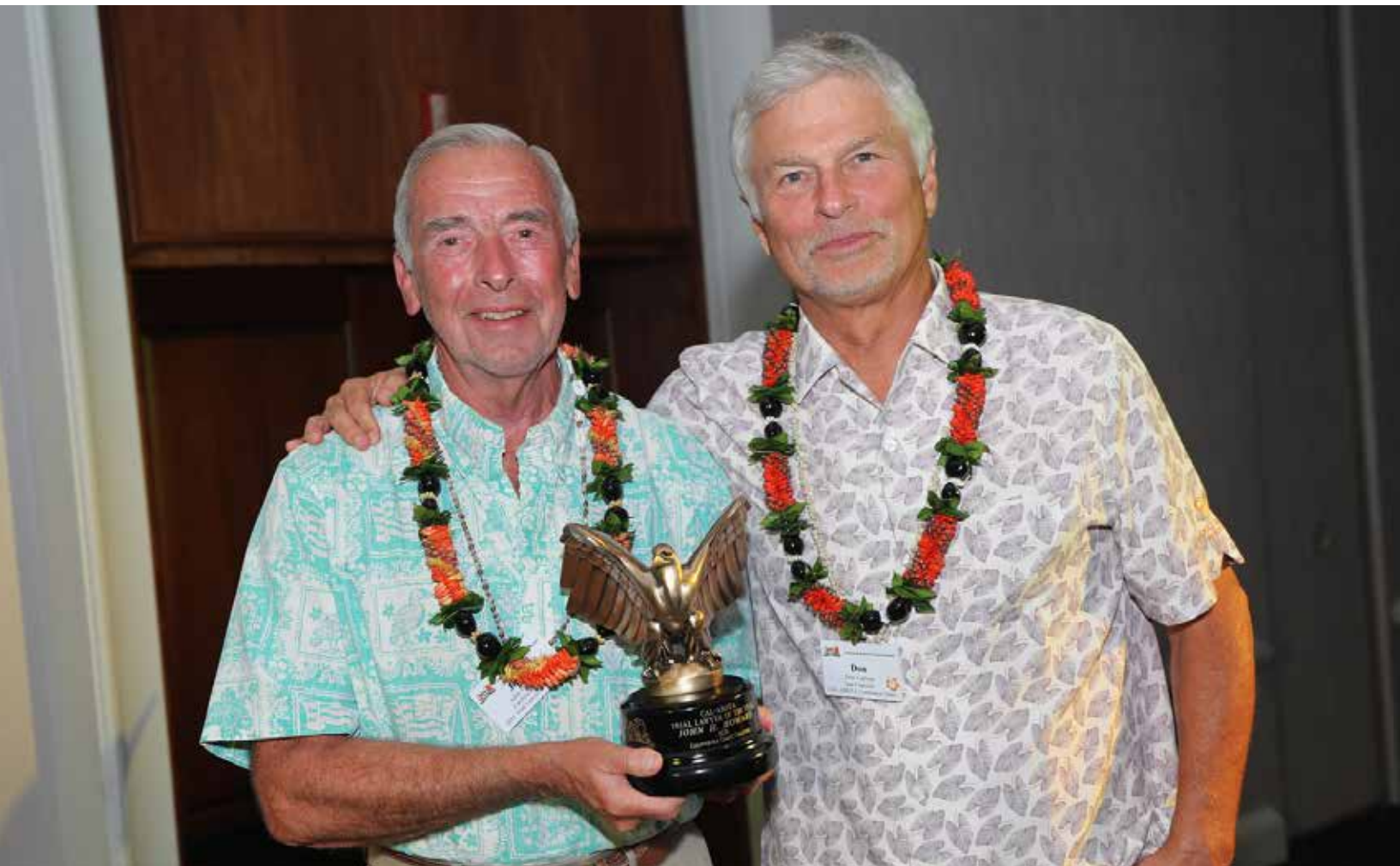
CITATIONS

FEBRUARY - TWO THOUSAND TWENTY TWO

JOHN HOWARD MAKES HISTORY AS CAL-ABOTA'S 2021 TRIAL LAWYER OF THE YEAR

by Jill L. Friedman

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Don Carlson, President of CAL-ABOTA, presents the TLOY award to Howard at the CAL-ABOTA Hawaii conference in November.

JACQUELYN D. RUFFIN
GREGORY W. HERRING
WENDY LASCHER
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PRESIDENT'S MESSAGE

by Jacquelyn D. Ruffin

A wave of harmony, kindness, joy and peace surged towards me. I felt his presence long before I saw him. Something in the very air transformed and commanded my attention. Turning towards the compelling energy, I first saw his soulful smile, then confirmed who he was by his hallmark magenta robes. Archbishop Desmond Tutu was walking directly towards me. With genuine humanity, he initiated a casual but influential conversation. I honestly do not recall the content of our discussion. What remains all these years later – and what I remembered upon learning of his death in December – is the feeling of our encounter. Then and now, I was impressed by the expansive positivity that emanated from someone who had witnessed and experienced so much suffering. Tutu was an impressive, global changemaker but asked us to simply “do your little bit of good where you are” because “those little bits of good together . . . overwhelm the world.”

It is true that a “little bit of good” can create exponential benefits. For example, I am fascinated by the story of a girl who grew up in rural South Carolina during the 1920s as the only female of seven children. When not working on her family’s farm, she attended the local one-room schoolhouse. An avid reader, the girl sometimes got into trouble for her curiosity (such as when she wasted all the eggs in the henhouse by breaking them open to determine how they turned into chickens). Although the girl’s mother was formidable, independent and well respected (which was not necessarily typical for women in general and particularly not Catawba women in the local community), she did not have a formal education. Neither did the girl’s father. Therefore, what prompted this child’s decision to leave her parents and siblings, move to Maryland to live with a relative she had never met, and work for room and board – all so she could continue her schooling past 6th grade?

This courageous decision was inspired by the one-room schoolhouse teacher who told my grandmother that she too could be a teacher. I may never know the details of their conversations; however, their exchange of ideas must have engendered some resoluteness in my grandmother. She would have had to undertake complicated

negotiations with her family who would miss her, perhaps be nervous for her and likely not have wanted to lose her much needed assistance on the farm. She would have had to endure the ridicule that some of her neighbors and friends directed towards her for daring to leave their small rural community. After moving, she would have had to navigate literally unfamiliar territory: a new town, a new state, new surroundings, new rules, new relationships. She would have had to carefully organize her day between her job and school responsibilities. She would have had to remain focused when doubt or fear crept in. Her determination was fruitful. Not only did she graduate at the top of her high school class, but she also earned a Bachelor of Science and a Master’s in Education. As a teacher, my grandmother was known for helping her students overcome significant challenges, working towards positive changes in the school system and participating in various volunteer programs.



Ruffin's favorite picture of her grandparents

that was initiated to bring education to underfunded and under-resourced parts of the post-Reconstruction South. If so, then she too had to adapt to a new environment, new community and new way of life. Schools were typically in the “backwoods” far from any homes. She would have therefore probably endured long walks to and from school in the sweltering heat and humidity one part of the year and the unforgivingly icy cold in another. She would have had to lug water to the schoolhouse. The building itself would likely have been a haphazard mix of planks, not a structure of solid walls. She would have had to ascertain ways to protect her students and herself from the elements. She would have had few

educational resources: according to some reports, state expenditure for schools in that part of South Carolina were less than \$2 per student in the 1920s-1930s. She would have been instructing students as young as five and as old as thirteen all at once, likely alone. Somehow, in those circumstances, this teacher had the foresight, compassion and fortitude to inspire my grandmother to seek something more. In other words, she did “a little bit of good” where she was and that “little bit of good” was multiplied through my grandmother.



Legal Issues For Artists presentation cover

In that spirit, I am excited to announce the VCBA ASK (Attorneys Sharing Knowledge) program. Through the ASK program, lawyers may contribute to the fulfillment of VCBA’s mission to “improve access to legal services for all people in Ventura County” in one of three ways.

First, local attorneys are invited to provide free legal presentations to underserved parts of our community at large. The first event, entitled “Legal Issues For Artists – Protecting Your Works From The Moment Of Creation And Beyond,” was held in collaboration with the Museum of Ventura County on Jan. 26. **Rebecca Makitalo, Corey Donaldson, Brian Fitzgerald, Jaye Heybl and Brian Philpot** covered copyright law, musicians’ rights, fair use issues, estate planning issues specific to artists, nonfungible tokens and more. The possibilities for future presentations are endless. For instance, **Jonathan Light** has agreed to facilitate a seminar on employment law issues and a local nonprofit leader specifically requested an estate planning presentation at a community center in Santa Paula.

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Second, VCBA ASK will offer educational talks to high school students from underserved populations. The series will commence in March (subject to COVID restrictions) with a "So You're Turning 18?" presentation at a local high school. **Joaquin Nava** will discuss the implications of becoming a legal adult from a criminal law perspective, **Vanessa Frank** will share insights about the ramifications of this milestone in immigration law and **Rabiah Rahman** will provide expertise about employment law issues relevant to young adults. Subsequent "So You're Turning 18?" presentations may address voting rights, contract law, family law and other legal matters.

Finally, VCBA ASK aims to inspire high school students who are statistically underrepresented to consider a career in law through informal panel discussions. This program already has a growing list of potential volunteers, including **Jessica Arciniega**, **Amber Lee**, **Nava**, **Rahman**, **Kristine Tijam**, **Xavier Villegas**, **Roslynn Wilfert** and **Jason Zaragoza**.

The ASK programs will be spearheaded by VCBA Board's Community Service Committee, which includes **Tijam** (chair), **Damon Jenkins**, **Stephanie Johnson**, **Bert Partida** and **Sara Peters**. Please do not hesitate to contact me for additional information about how you can share some positivity with our local community by "doing your little bit of good" through ASK.



Jacquelyn D. Ruffin is a partner at Myers, Widders, Gibson, Jones & Feingold LLP. Her practice focuses on corporate/business, real estate and land use matters. She can be reached at jruffin@mwglaw.com or 805-644-7188.

LETTER TO THE EDITOR

by Gregory W. Herring

My recent article (published in **CITATIONS**), *The Further Expansion of—and Assertion of “Guardrails” to—California’s Notions of “Domestic Violence” in Family Law*, focused in part on the Court of Appeal’s July 27, 2021 opinion in *In re Marriage of L.R. and K.A.*, which the Court of Appeal certified for publication. The opinion reversed the trial court’s findings of domestic violence, holding that, “although demonstrating poor co-parenting, [the mother’s behavior] did not rise to the level of destroying [f]ather’s mental and emotional calm to constitute abuse within the meaning of the Domestic Violence Prevention Act”

Publication would have made the opinion citable as binding precedent (with narrow exceptions, California Rules of Court, Rule 8.1115 provides that unpublished appellate opinions must not be cited or relied on by a court or a party in any other action). The opinion’s opponents were concerned that it represented undue interference by the appellate court into the trial court’s subjective determination of facts and findings of “domestic violence” following an evidentiary trial. Its supporters, however, applauded the manner in which it addresses “...the systemic issue courts see regarding domestic violence restraining orders used as a tool for control against the opposing party, rather than actual protection as is intended.” The California Supreme Court received extensive lobbying both for and against publication.

On Nov. 10, 2021, the Supreme Court opted to de-publish the Opinion and did not grant review. A prominent former Superior Court judge speculated that “... the de-publication was motivated by many factors, including the optics of reversing a trial court for granting a restraining order on [particular] facts—there is a reason we have a substantial evidence rule.” (The substantial evidence rule is a principle that a reviewing court should uphold a trial court’s ruling if it is supported by evidence on which the trial court could reasonably base its decision.) The upshot is that the opinion may not be cited or relied on by a court or a party in any other action.

JOHN HOWARD MAKES HISTORY AS CAL-ABOTA'S 2021 TRIAL LAWYER OF THE YEAR

by Jill L. Friedman

Until just recently, the California Coast Chapter of the American Board of Trial Advocates (ABOTA) was the Susan Lucci of the prestigious CAL-ABOTA Trial Lawyer of the Year award ("TLOY"). The California Coast Chapter, affectionately known as the "Cal Coast Chapter," whose members hail from Ventura, Santa Barbara and San Luis Obispo Counties, was the only one of CAL-ABOTA's eight chapters to never have one of its members hold the now 60-year-old title. In the past, the Cal Coast Chapter nominated such Tri-County civil trial powerhouses as **Benjamin Engle**, **Don Ernst** and **Michael Connelly**.

2021 was the fourth consecutive year that **John Howard** was the Cal Coast Chapter's nominee for the CAL-ABOTA award. Three years ago, Howard finished third, and two years ago he was the runner up. Howard has continued to exhibit his outstanding skills and professionalism throughout the challenges of the past couple years.

In the past five years (pandemic notwithstanding), Howard obtained six jury verdicts of seven to eight figures. In addition, within that timeframe he obtained a \$4,200,000 judgment in a protracted court trial and settled cases for substantial amounts during the course of other jury trials. In his career, Howard has tried over 70 jury trials and obtained nineteen verdicts and judgments ranging from \$1,000,000 to \$50,000,000.

While he is best known for his trial work as a plaintiff's personal injury attorney, Howard has obtained seven-figure jury verdicts in a variety of cases, including wrongful termination, sexual molestation, false imprisonment and insurance bad faith. He has had great success in other matters as well, including police abuse, sexual harassment and inverse condemnation.

At the heart of his excellence in advocacy is Howard's devotion to his clients' cause. Once he decides to take on a case, he is tenacious, yet always civil, never giving up no matter the odds. His adversaries respect his ability as a trial lawyer and his civility in achieving these good results. He is truly a lawyer's lawyer and someone who elevates

the reputation of ABOTA whose tenets include civility.

Howard was admitted to the Bar in 1979 and worked primarily as a sole practitioner until 2014 when he joined the Oxnard firm of Lowthrop Richards, LLP. In addition to his service to ABOTA as President of the Cal Coast Chapter in 2004, he served as President of the Ventura County Bar Association in 1997 and received its prestigious Pro Bono award in 2011. In 1992, he served as President of the Ventura County Trial Lawyers Association and twice received that organization's award for TLOY.

He has volunteered his time on VCBA's Judicial Nominations Evaluation Committee and its Ethics Committee. He spearheaded an innovative program which allowed jury trials to be conducted at the Ventura College of Law, reducing pressure on an overcrowded, understaffed court system at a critical time. He has been appointed as a delegate to various State Bar conventions. He has been a Master in the Ventura County Chapter of the Inns of Court. He has lectured and authored materials for many Continuing Legal Education programs, and he has presented programs in local high schools on the civil justice system. He continues to volunteer his time to promote professionalism and collegiality in the legal arena.

Howard was an active member of the Ventura County branch of the Southern California Chapter of the Arthritis Association, serving as its President in 1987. He was in the U.S. Naval Reserve, retiring in 1999 with the rank of Lieutenant Commander. He has coached high school varsity football and baseball teams from 2003 to the present. He is currently a member of the Board of Trustees for Villanova Prep School in Ojai, and is a past Trustee of the Ventura College of Law.

Howard worked in the field of banking and finance before deciding to become a lawyer. He was troubled by unethical business practices which he observed in the industry, so he changed careers and devoted his efforts in the law to upholding the highest

standards of integrity. This dedication has been recognized by his peers, as he has long been rated AV by the Martindale-Hubbell organization. He co-founded VCBA's Ethics committee. He is a very proud recipient of the Cal Coast Chapter's Civility Award, considered the most prestigious honor bestowed by the chapter.

Howard has a knack for bringing in large verdicts when his opposition values the case much lower. For example:

- *McCoy v. Caltrans*: \$22,000,000. In this case involving a dangerous condition of public property, Howard's co-counsel and fellow ABOTA member, **Al Templeman**, was hospitalized just before trial and Howard had to handle the entire case on his own. The defendant had only offered \$100,000 before trial based on their analysis that plaintiff was at least 90 percent liable, but the jury assigned only 20 percent comparative negligence to the plaintiff.
- *Mills v. Gutierrez-Hermosillo dba Pizza Hut*: \$7.76 million. In this auto accident case, the defense offered only \$75,000 before trial.
- *Mangum v. Dayton Hudson*: \$5.2 million. In this case of false imprisonment of an employee, defendant's only offer of \$125,000 was made just before trial began.
- *Doe v. Wiley*: \$5.17 million sexual molestation verdict; defendant made no offer prior to trial.
- *David v. Hernandez*: \$3.3 million. In this auto versus tractor-trailer case, defendant made a \$150,000 offer.
- *Sanchez v. Hage!*: \$1.87 million. No pre-trial offer was made in this auto collision case and defendant had rejected a \$50,000 policy limits demand.
- *Vasquez v. Foxborough Park, Inc., et al.*: \$1.4 million verdict after rejection of pre-trial settlement offers under \$250,000. Howard exceeded his CCP 998 offer of \$1,000,000 and therefore recovered a total, including experts' fees and costs, in excess of \$1,600,000.

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• *Sirott v. Caltrans*: over \$1,000,000. On the first day of trial, Caltrans offered \$15,000 in this bicycle accident case.

Howard has been extremely active in ABOTA since becoming a member in 1995. He was President of the Cal Coast Chapter in 2004 and a member of CAL-ABOTA's Board of Directors from 2003 through 2004. He was the Cal Coast Chapter's National Representative from 2005 through 2015, and upon the untimely passing of the chapter's then National Representative in 2018, Howard once again volunteered to serve out the remaining years of that term and continues to serve in that position to this day.

In 1999, after nineteen nominations, Susan Lucci finally won an Emmy for Outstanding Lead Actress, leading to one of the loudest and most exuberant ovations at an awards ceremony ever. At its annual dinner celebration in December, the Cal Coast Chapter honored its well deserving

nominee and celebrated the chapter's first ever win for CAL-ABOTA TLOY. Howard, however, was not there to hear the raucous applause and receive the accolades. He was, not surprisingly, in trial. Of course, he won and added another multi-million-dollar verdict to his résumé.

ABOTA is an invitation-only organization. Members must have at least five years of active experience as trial lawyers, have tried at least ten civil jury trials to conclusion, and possess additional litigation experience. Members must also exhibit the virtues of civility, integrity and professionalism. www.abota.org.



Jill L. Friedman is a partner with the Ventura firm of Myers, Widders, Gibson, Jones & Feingold, LLP. She served as President of the California Coast Chapter of ABOTA in 2018.

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LEGAL EDUCATION, OR NOT

by Wendy Lascher

After some odd developments in a case from outside Ventura County, a lawyer in trial counsel's firm began asking me questions as he prepared to oppose an ex parte motion. He sounded older than a newbie, but he asked me so many questions that I thought he must be brand new. The guy seemed determined to understand why the other side was making what I thought was a dumb and completely unnecessary motion.

Curious, I read his bio on his firm's website, learned he was a second-career lawyer with a couple of years of practice, and told him I would like to meet him someday. I am reprinting his response with his permission, but without including names. I found the story sad but his attitude and humility inspiring.

My bio is worse than what is up there. I went to an unaccredited law school. I started out at this guy's house in _____. He had a law school with three students. I was one of them. That did not work out well. I did not learn ANYTHING. And I took the Baby Bar and did not pass!

That was the first time in my life I failed something. I had credit for the first year of law school. And at my age, time is a consideration. So I got with a tutor at Flemings Fundamentals of Law. That was basically how I learned first year - through a tutor using baby bar review tools. I never read a case on torts, or contracts, or any other first year subject.

Once I passed the Baby Bar, I tried to go to an accredited school. BUT, no one will accept your credits from an unaccredited school. So it was either do the whole first year over, or continue with another unaccredited law school. Because of my age, I chose to continue the unaccredited route. I do not recommend it on any level.

You have to learn everything on your own. The teachers that the unaccredited schools have are not experts in the

subjects they teach. It really requires a lot of motivation. You have to be willing to take the chance that you can learn it on your own. I was not super comfortable with my choice. But I figured I would save a year by not having to do the first year over.

It was really a disaster. I am the only person who passed the bar in my class from ____ School of Law. There were about fifteen people in my class.

After I "graduated," I took the BarBri bar prep. But I was learning real property, evidence, con law, and civ pro pretty much from scratch. It was totally overwhelming. Every day of bar review, I just felt as though I was behind. The first bar was an absolute disaster. I had no idea how to organize or write well. I passed the MBE with a pretty high score, but the writing was a disaster. I did not understand how to write at all.

So it was back to a tutor (_____). I worked with him for the second attempt (Feb 2020). this guy taught me a TON!!! I learned how the law works in terms of case law, and how the law changes based on decisions of cases. I got to where I really understood the performance test. Barbri did nothing for me on the PT. But this tutor walked me through how to read the library, etc. I really kind of enjoyed the PT after tutoring with _____.

Okay, long story short, it ended on a good note. I passed that bar exam (Feb. 2020). It was the lowest pass rate in the history of the Cal Bar (26.5%). Everybody was up in arms about that low pass rate. The Supreme Court made [the cut scores] lower for the next test. I think it is 1390 now, as opposed to 1440. There were other people I knew who sat for that Feb. 2020 bar. Unfortunately, none of them passed.

But I raise this point because everybody talked about what a disaster the PT was. Everyone got lost on it. And I really think that my practice of the PT with my tutor made a big difference.

Wendy, I am sure I passed by the skin of my teeth. But I am glad it's over. As I said, I would not recommend my way of getting a bar license. I made every mistake possible. I really thought I could just go to any school, and pass the damned thing. What the heck! I went to college, and never really studied! I figured, how hard could it be?

Thank you again for your help. I really appreciate it.

_____, Esq. (that still feels good to be able to write that)

PS - if you know of someone who teaches (or tutors) law research, I would be very interested. That is the hardest part for me. I have worked with _____ for about eleven years now. I have written many openings for attorneys, and closings. My super weak spot is research. I signed up for an online writing course but it does not get into research. I have had a difficult time figuring out how to start a research assignment. I know it probably sounds very elementary to someone like you. But I have very little procedural experience. So if you know someone, please pass along the information.

I am passing along the information, and happy to introduce anyone who volunteers, but I have already volunteered to help _____ learn how to think about issue-spotting, researching and organizing.



Wendy Lascher is a co-editor of CITATIONS. She is a partner at Ferguson Case Orr Paterson, LP, and a State Bar-certified specialist in appellate law.



Yolanda Castro

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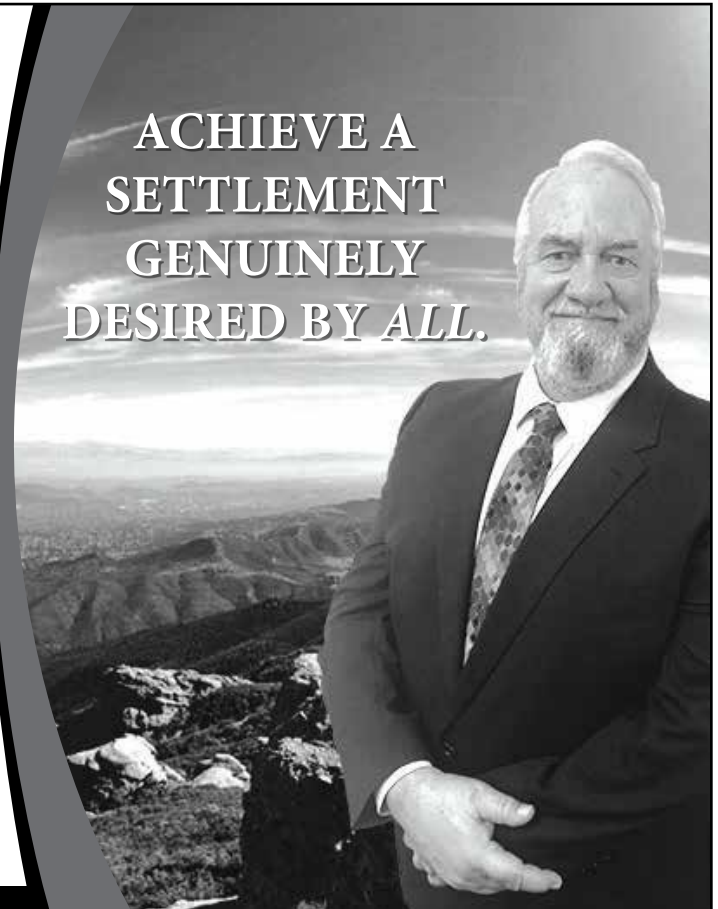
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22 FOR 2022—TWENTY-TWO NEW EMPLOYMENT LAWS TO BE AWARE OF IN 2022!

by Christopher Correa



Prepare your business for new California workplace laws. The past year has had human resource professionals scrambling to keep up. The Legislature passed several laws that will affect California employers. Our employment law attorneys have listed “22 for 2022” new employment laws that you need to know about as we head into the new year. Hold on to your seats!

SB 93: Rehiring and retention

SB 93 requires that employers in certain industries, particularly the hospitality industry, make written job offers to employees whom they laid off because of COVID-19. Employees have five business days to respond, and employers must keep records for three years.

AB 1003: Wage theft

AB 1003 makes intentional theft of wages in an amount greater than \$950 from any one employee or \$2350 from two or more employees in any consecutive twelve-month period punishable as grand theft, which may be either a misdemeanor or felony. Examples of wage theft include being paid less than minimum wage per hour, not being allowed to take meal and rest breaks, owners or managers taking employee tips, and bounced checks, to name a few.

AB 1033: Expansion for CFRA leave to include parents-in-law

Employers must grant eligible employees up to twelve weeks of job-protected time off from work annually for the purposes

of providing care to a parent-in-law with a serious medical condition under the California Family Rights Act (CFRA).

AB 685: Noticing requirements

AB 685 establishes employer reporting and noticing requirements upon notice of a potential exposure to COVID-19 at the workplace. After receiving notice of a potential exposure to COVID-19, the employer must, within one business day, provide written notice to all employees and the employers of subcontracted employees that were on the premises at the same worksite, provide information regarding benefits, and notify all employees of the disinfection and safety plan.

AB 654: Employer reporting requirements revised

AB 654 expands the types of employers who are exempt from COVID-19 outbreak reporting requirements. Employers such as community clinics, adult day health centers, community care facilities, and child daycare facilities are exempt from COVID-19 outbreak reporting required under AB 685.

AB 2537 and SB 275: PPE requirement

AB 2537 and SB 275 require that employers provide all employees working in hospitals with Personal Protective Equipment (PPE), maintain a three-month stockpile and provide inventory information to Cal/OSHA upon request.

SB 331: Limits NDAs and settlement agreement terms in employment cases

SB 331 further limits the use of non-disclosure agreements (NDAs) and settlement agreement terms when settling employment legal claims involving harassment, discrimination or retaliation.

SB 1159: COVID-19 Workers' Compensation

SB 1159 expands access to workers' compensation so that first responders, health care workers and people who test positive due to an outbreak at work get support, including necessary medical care and wage replacement benefits. Employers are required to notify their insurance carriers and/or third-party administrators, in writing, of all known employee COVID-19 positive cases, whether the case is work-related or not, within three business days.

SB 807: Personnel records retention

SB 807 extends the current personnel records retention requirement to four years.

SB 1383: California Family Rights Act (CFRA) expanded to cover businesses with five or more employees

SB 1383 expands CFRA to employers with five or more employees and expands the scope of “family members” for whom employees may take leave to care for a serious health condition to include siblings, grandparents, grandchildren and domestic partners. The definition of “child” is expanded to include adult children. The new law replaces the new Parental Leave Act.

AB 2399: Paid family leave for active military duty

AB 2399 extends the definition of Paid Family Leave under the state's Unemployment Insurance Code to include coverage for active military members and their families. It provides wage replacement benefits for employees to take time off to care for a seriously ill family member.

AB 2043: Occupational safety and health, agricultural employers and employees

AB 2043 requires employers to disseminate information to agricultural employees of best practices for COVID-19 infection prevention in both English and Spanish. It also requires that Cal/OSHA work with employers and employees on outreach campaigns targeting agricultural employees. The law only applies during the state of emergency.

AB 1867: Supplemental paid sick leave

AB 1867 expands supplemental paid sick leave for COVID-19 related reasons for employers not covered by the federal Families First Coronavirus Response Act (FFCRA) – employers with 500 or more employees, as well as health care providers and first responders.

***Vazquez v. Jan-Pro Franchising International, Inc.* (2021) 10 Cal.5th 944: *Dynamex* retroactivity**

Responding to a certified question from the Ninth Circuit Court of Appeals, the California Supreme Court ruled that the independent contractor ABC test in *Dynamex Operations West, Inc. v. Superior Court* (2018) 4 Cal.5th 903 applies retroactively to all cases “not yet final” as of the date of the *Dynamex* decision, which was March 30, 2018. A business that relied in good faith on *Borello* can now be liable for not following the ABC test before the *Dynamex* decision was ever issued.

AB 1512: Security guard rest breaks

AB 1512 changes the law to provide that security guards may be required to remain on the premises during rest periods and to remain on call during the rest period.

AB 3075: Expansion of successor liability for Labor Code judgments

AB 3075 provides that “[a] successor to a judgment debtor shall be liable for any wages, damages, and penalties owed to any of the judgment debtor’s former workforce pursuant to a final judgment, after the time to appeal therefrom has expired and for

which no appeal therefrom is pending.” AB 3075 also adds a new requirement that a company submitting its statement of information with the California Secretary of State state whether “any member or any manager has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal therefrom is pending, for the violation of any wage order or provision of the Labor Code.”

***Brown v. TGS Management Co., LLC* (2020) 57 Cal.App.5th 303: Confidentiality and non-compete**

An employee confidentiality agreement may be voided as a de facto unlawful non-compete agreement if it has the effect of preventing the employee from working in the industry.

AB 1947: Complaints with DLSE

Effective date: Jan. 1, 2021. This legislation extends the statute of limitations to file a complaint with the California Division of Labor Standards Enforcement from six months after the alleged violation(s) to within one year after the alleged violation(s).

SB 973: New pay data reporting obligations for employers with 100 or more employees

SB 973 requires employers with 100 or more employees who are required under federal law to file an annual federal Employer Information Report (EEO-1) to submit an annual pay data report to the California Department of Fair Employment and Housing (DFEH). The report must include the number of employees and the hours they worked by race, ethnicity and gender in ten federally identified job categories and whose annual earnings fall within the pay bands used by the U.S. Bureau of Labor Statistics in the Occupational Employment Statistics survey. Since SB 973 was enacted on Sept. 30, 2020, private employers with 100 or more employees must submit their pay data reports to the DFEH by March 31, 2021, and annually thereafter.

AB 2143 – Loosened restrictions on “no re-hire” provisions in employment settlement agreements

AB 2143 requires that an aggrieved former employee must have filed the claim in good faith in order for the prohibition against “no-rehire” provisions apply. AB 2143 expands this “no-rehire” exception to allow no-rehire provisions when the former employee engaged in any criminal conduct, rather than limiting the exception to sexual harassment or sexual assault. To qualify for the “good faith determination” exception, an employer’s determination must have been made and documented before the aggrieved person filed the claim or complaint.

California Proposition 22 (Prop. 22): Exempts app-based drivers from AB 5

Prop. 22 allows app-based ride share and food delivery companies to treat workers as independent contractors, even though they do not qualify as such under the AB 5’s “ABC” Test. Workers are only independent contractors if the workers have freedom to determine dates and times of work, and the company does not restrict the driver from performing rideshare or delivery services for other companies.

Employee handbooks

Several new laws require employers of all sizes to update their employee handbooks. Employee handbook revisions should address remote work rules, COVID-19 specific workplace safety plans, expanded leave rights (CFRA) and changes to crime victims leave and organ and bone marrow donation.



Christopher Correa practices at *Schneiders & Associates, LLP*. Chris advises employers about their rights and obligations related to employment law. He is an expert at COVID-19 employment related issues,

such as paid time off, vaccine and testing requirements, and exposure noticing. 805-764-6370; ccorrea@rstlegal.com.

HAVE YOU HEARD?



The Ventura legal community, and the firm of Myers, Widders, Gibson, Jones & Feingold, LLP, suffered a major blow with the Jan. 18 death of **J. Roger Myers**. A former Marine

Corps officer, Myers served as VCBA President in 1992 and was instrumental in conducting the annual Stand Down for homeless veterans every year since 1993. Please watch for obituaries of Myers, and his late wife **Katherine Stone**, in the March issue of CITATIONS.



Jones, Lester, Schuck, Becker & Dehesa, LLP is excited to announce that **Eric A. Hirschberg** became an equity partner on Jan. Our firm name is now Lester, Schuck, Becker, Dehesa & Hirschberg, LLP. Additionally, the firm has also welcomed **Katherine B. Sommer** as an associate in our Camarillo office. Read more about the firm at www.VenturaEstateLegal.com.



CNN reports that the U.S. Department of Labor sued a Georgia auto-repair shop that allegedly paid a former employee's final paycheck by dumping 91,500 greasy pennies in his driveway. The shop acted in alleged retaliation for the employee's complaint that he did not receive the final check. The lawsuit seeks an additional \$36,971 in back wages and liquidated damages.



Ferguson Case Orr Paterson, LLP congratulates founding partner and current of counsel attorney **Michael Case** for 50 years of law practice. And, the firm is also proud to announce that **Elana Cuzzo** has become an associate and **Alec Yarborough** has joined the firm as senior counsel. Both will work with the firm's estate planning and probate department. Reach them at 805-659-6800.


The Lawyer Referral Service Advisory Committee is pleased to welcome **Carolyn Phillips, Ted Mechtenberg** and **Matthew Zavala**. They join **Deborah Bartlett, Mary P. Kulvinskis, Deborah Meyer-Morris, Jodi Prior, M. Carmen Ramirez**, and Chairperson, **Michael Strauss**. New committee members fill the vacancies for **Kenneth Kossoff, Steve Lehat, Start Nielson** and outgoing Chairperson, **Louis Vignita**. VCBA is grateful for their time and dedication. The purposes of this Committee are to monitor the policies and procedures which govern the operation of the Association's Lawyer Referral and Information Service Program; to recommend to the Board of Directors such changes as may be necessary or desirable; to maintain and promote the public service aspects of the Program; and to maintain an effective liaison with the Legal Aid Society of Ventura County so as to insure that every person who needs an attorney may readily obtain one.



Supervisor Carmen Ramirez of Oxnard was unanimously elected Tuesday as chairwoman of the Ventura County Board of Supervisors, making her the first Latina in county history to hold the position.

It is the second of a pair of firsts for Ramirez in a little over a year. She became the first Latina to be elected supervisor in November 2020.

Ramirez is one of the few residents of Latin American descent to serve on the board during its nearly 150 years of county governance. They include rancher Adolfo Camarillo in the early 1900s and John Zaragoza, who was elected in 2008 and is now mayor of Oxnard.




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SUPERIOR COURT PLANS FEBRUARY REOPENING

The Ventura County Superior Court's Administrative Order No. 22.04, filed on Jan. 26th, states that beginning Feb. 1, the clerk of the court is authorized to receive, process and file all court documents, though the clerk's offices and lobbies will remain closed to in-person services until Feb. 22. Filings may be submitted through eDelivery, U.S. mail, or the court's drop boxes. Documents received after 4 p.m. will be processed and filed the following day.

Feb. 1 is deemed the first day that is not a holiday for computing time (except for limited filings authorized by prior administrative orders to be filed earlier.)

The Family Law, Civil, Probate and Juvenile Departments may resume certain hearings beginning Feb. 7. Other matters will resume later; see Order No. 22.04 for details. http://www.ventura.courts.ca.gov/orders/AO_22-04_Re-Beginning-of-Court-Reopening-Feb-2022.pdf.

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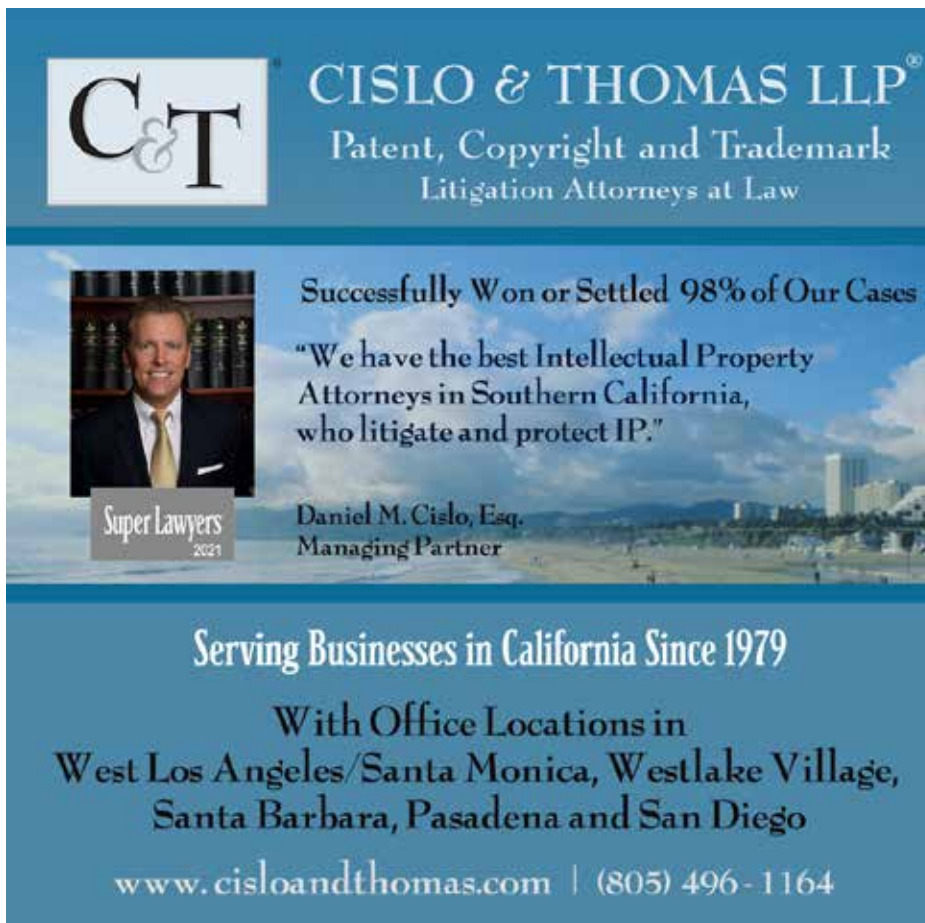


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