Santa Barbara Lawyer
Official Publication of the Santa Barbara County Bar Association
February 2020 • Issue 569

Santa Barbara County Bar Association

www.sblaw.org

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Santa Barbara Lawyer

A Publication of the Santa Barbara County Bar Association

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Santa Barbara Lawyer
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On the Cover

Santa Barbara Superior Court Presiding Judge Michael Carrozzo

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Spotlight on Santa Barbara Superior Court Presiding Judge Michael Carrozzo

Michael J. Carrozzo was appointed as a Santa Barbara Superior Court Judge in 2014. Previously, he had been in private practice, served as a special assistant U.S. Attorney at the U.S. Attorney's Office, Central District of California, and as U.S. Army Captain and Judge Advocate until 2007 when he joined the Santa Barbara District Attorney's Office. He served as a deputy district attorney until his judicial appointment. He also worked closely with Judge George Eskin (ret.), to start the Veterans' Treatment Court, which serves veterans in the justice system who are struggling with addiction and mental illness. Judge Carrozzo is currently serving in the criminal division in Santa Barbara.

Q & A with Presiding Judge Michal Carrozzo

How long you have been on the bench? Five years.

Tell us about your education.
I attended Santa Barbara City College and UCSB before transferring to UCLA where I obtained my bachelor's degree in 1989. I attended Loyola Law School and received my JD in 1991.

What advice would you offer to a new attorney? Pick a single area of law and become a subject matter expert.

If you could change one thing about the judicial system what would it be? I would add more resources to the courts and counties to decrease caseloads.

What wisdom have you gleaned as a member of the Bench? Patience is a virtue.

Describe your style in the courtroom. I try to be prepared, consistent and open to different points of view.

The A Team: Angela Braun, Judge Michael Carrozzo, Sara Eklund, Christina Cruz and Leo

Who were your mentors? What were important lessons they taught you? I have had several mentors including family, coaches and attorneys. The most important lesson I have learned is to work hard and consider as many options as possible.

What do you love about your job? The most rewarding part of my job is helping veterans.

What do you do in your spare time? I enjoy sports and outdoor activities.

Do you have any advice for attorneys trying a case before your Bench? Be prepared, concise and courteous.

Are there any changes in the legal community you're excited about?
I am excited about continued efforts to use technology in legal proceedings to increase efficiency and access to justice.

What do you believe is the biggest difference between practicing law and presiding as a judge? As a judge your focus is on entirely different aspects of the law. As an attorney you are an advocate; as a judge, the goal is to achieve fairness and justice for all the parties.

Who is your legal hero/ine? Ruth Bader Ginsburg ■

2020 Vision

Laws that Could Affect Personal Finance in the Coming Year

By Kendall VanConas

The new year is here – along with a number of legal game-changers that could broadly affect personal wealth. Attorney Kendall VanConas, managing partner of A to Z Law in Oxnard, presents five primary areas of fiscal interest:

Property Taxes

Anyone who's taxed on commercial or industrial property in the state will want to know about the *California Tax on Commercial and Industrial Properties for Education and Local Government Funding Initiative,* on the Nov. 3, 2020, ballot.

The ballot initiative would amend the state constitution to require commercial and industrial properties, except those zoned as commercial agriculture, to be taxed based on their market value. Residential properties would continue to be taxed based on their purchase price, as established by Prop. 13, California's landmark 1978 system of reduced property taxation.

The tax reform is backed by powerful unions, including the California Federation of Teachers, which asserts the $11 billion estimated to be collected in additional property taxes would "place more teachers, nurses and counselors in our public schools, rebuild infrastructure, and provide for more affordable housing, healthcare, parks, libraries and first responders."

Retirement

A sweeping bill that aims to help aging America overcome its retirement savings crisis became law when President Trump signed it as part of the year-end spending bill.

Overwhelmingly passed by houses of Congress, *The Setting Every Community Up for Retirement Enhancement Act of 2019* – aka the SECURE Act – aims to greatly increase the access Americans have to their retirement savings, and to prevent older Americans from outliving their savings. Hailed as a victory for Main Street Americans, the SECURE Act's many provisions include an increase on the cap for automatic contributions to pension plans from 10% to 15% of employee compensation, and it eliminates the so-called "stretch" payout on inherited IRAs, from a lifetime payout to a 10-year period.

Kendall VanConas

Health Insurance

One of the most controversial aspects of the Affordable Care Act of 2010 (aka "ObamaCare") has been the so-called "individual mandate." The mandate required most Americans to obtain health insurance, or face a penalty when they filed their income taxes.

However, the GOP-backed *Tax Cuts and Jobs Act of 2017* eliminated the *individual mandate* beginning on Jan. 1, 2019. The penalty was seen as the gear driving the Affordable Care Act. The requirement to purchase insurance meant that everyone – sick or healthy – would have to sign-up for coverage, thus holding down premiums. Without the mandate, a greater burden is put on those who opt to pay the insurance, allowing others to remain uninsured, without sanction, until they need it.

In mid-December of 2019, a federal appeals court struck down the individual mandate as unconstitutional. The ruling will most certainly bring the law before the Supreme Court again but, for better or worse, the bottom line is that, in 2020, an uninsured tax filer who would previously have been penalized will no longer have to pay that penalty.

Alimony

Another tax change stemming from *the Tax Cuts and Jobs Act of 2017* will affect the estimated 1 million marriages that ended in divorce last year – or at least those involving spousal support.

When income tax returns are filed in 2020, for any divorce or separation agreement made or modified in 2019, alimony payments will no longer be tax-deductible for the payor or taxable income for the payee.

As CNBC noted in a November 2018 article, under the headline, *New Divorce Tax Rules Could Leave You with a Big Financial Disadvantage*: "This change upends alimony procedures that have been in place for more than 70 years. And it is projected to raise $6.9 billion for the IRS in the next 10 years." Not surprisingly, women, who comprise 97% of alimony recipients, "are expected to suffer most."

Continued on page 12

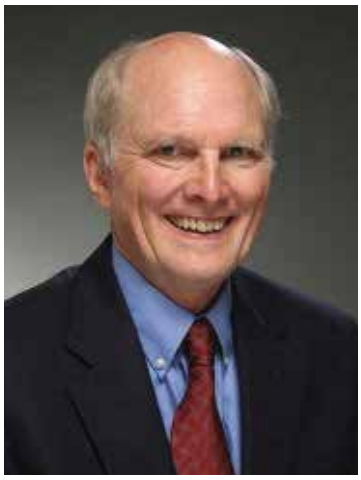
Substantiation and Valuation Issues With Charitable Contributions

By Kemble White

Your clients are downsizing from a mansion to a 2-bedroom apartment. They have taken furniture and clothing to *Goodwill* and gotten a blank receipt, which they bring to you with a list of what they contributed. They want to claim a charitable deduction in the amount of $50,000. There are substantiation and valuation problems.

The substantiation requirements are complex. Gifts of $250 or more require substantiation by a contemporaneous written acknowledgement by the donee that includes the amount of cash and a description (but not value) of non-cash property and a statement of any quid pro quo. IRC 170(f)(8). The blank receipt from *Goodwill* does not meet this requirement. A deduction of more than $500 for certain non-cash property is not allowed unless a Form 8283 describing the property and setting forth some history of the property is filed with the return. *IRC* 170(f)(11)(B). When the deduction exceeds $5,000, a Form 8283 and a qualified appraisal are required. *IRC* 170(f)(11)(C). In some cases Form 8283 instructions require the appraisal to be attached to the return. For contributions over $500,000, Form 8283 and the appraisal must be attached to the return. *IRC* 170(f)(11)(D). If these requirements are not met, the claim will likely be disallowed on audit.

Surely the IRS will cut your people some slack. The slack may come with the discriminant function used to select returns for audit. If the charitable contribution number does not stand out from the other numbers in the return, that number will not flag the return for audit. In most cases a $50,000 charitable contribution will stand out. The IRS wants to see strict compliance with the substantiation rules. If you do not have a contemporaneous qualified appraisal, on audit the deduction will be disallowed; and you will not do much better in the Tax Court.



Kemble White

Here is a summary of a few high dollar cases: In *Preseley v. Commissioner*, TC Memo 2018-171, the court disallowed charitable contributions for improvements, equipment, and land because the taxpayers failed to get a contemporaneous written acknowledgement from the donee, failed to properly prepare Form 8283, and failed to obtain an appraisal. In *Bel Air Woods, LLC v. Commission,* TC Memo 2018-159, the court denied a deduction of over $4 million holding that the taxpayer's appraiser failed to include the taxpayer's basis in the donated property, and that the appraisal did not strictly or substantially comply with the substantiation requirements. In *1982 East LLC v. Commissioner*, TC Memo 2011-84, a deduction of over $6 million was denied for failure to obtain a qualified appraisal. The IRS won all these cases on the substantiation issue. Form prevailed over substance. Valuation issues were not reached.

> The lesson of these cases is that the taxpayer needs to understand the substantiation requirements and rigorously comply with them before the return is filed.

The lesson of these cases is that the taxpayer needs to understand the substantiation requirements and rigorously comply with them before the return is filed. That means getting a qualified appraisal. Returns are reviewed in a Service Center. If the substantiation documentation looks good, the Selection Officer should pass it on. If not, selection for audit is likely.

What is a qualified appraisal? It must be made not earlier than 60 days before the date of contribution and not later than the due date for the return. It must be prepared, signed and dated by a qualified appraiser. It does not involve a fee contingent on the amount of the appraised value or the amount of the tax deduction claimed. It must contain 11 items detailed in Treasury Regulation 1.170(a)-13(c)(3)(II).

What is a qualified appraiser? The requirements of IRC 170(f)11(e)(2) and (3) are that the appraiser (a) has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met Treasury

Regulation requirements, (b) regularly performs appraisals for which the appraiser receives compensation, (c) meets other requirements that may be prescribed by regulation, (d) demonstrates verifiable education and experience in value and type of property subject to the appraisal, (e) has not been prohibited from practice before the IRS any time during the 3-year period ending on the date of the appraisal.

How does one get a qualified appraisal? It is not easy. I talked with several antique appraisers and auctioneers in connection with my hypothetical, and their response was that they are not interested in smaller cases, that they work for about $100 an hour, and that the market for antiques in California is extremely weak. They say the clients would be disappointed with their appraisal numbers and suggest the client might be better off financially to consign the property to auction.

Valuation problems are easily solved with contributions of cash and publically traded securities. They become more complex with art, conservation easements, other real estate, equipment, unlisted securities, collectibles, and intellectual property.

The IRS has expertise in the valuation game. It has engineers who spend most of their time working on valuation issues. At the beginning of an audit, if we have a sound valuation case and the agent does not seem comfortable with the valuation issues, it is appropriate to ask the agent to refer the matter to the engineers. However, as the above cases indicate, the IRS will open its attack by challenging substantiation; and if the substantiation requirements are not met, we will not get to the valuation issues.

Valuation standards may be comparable sales, replacement cost, income, or some combination of these. ■

Kemble White is a tax attorney based in Santa Barbara. He is a former trial lawyer for the IRS Office of Chief Counsel, and he has more than 25 years in private practice resolving problems with the IRS and state tax agencies. He can be reached at KembleWhite@ cox.net, and his website is www.kemblewhite.com.

Assembly Bill 5

Problem or Solution for Entrepreneurial and Professional Workers?

Exemption No. 5

Business-to-Business Contracts

By Robert W. Olsen, Jr.

Assembly Bill 5

To great fanfare, Governor Gavin Newsom signed into law California Assembly Bill 5, codified as Labor Code §2750.3 and effective as of January 1, 2020 ("AB5"). AB5 banned reclassification of existing employees retroactive to January 1, 2019, if reclassification was "due to this measure's enactment." AB5 also codified the main thrust of *Dynamex v. Superior Court (2018)* 4 Cal.5th 903 ("***Dynamex***") in §2750.3(a): requiring the hiring entity to demonstrate that the worker is correctly classified as an independent contractor, and not an employee, under the ***Dynamex*** "ABC" test:

(A) The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.

(B) The person performs work that is outside the usual course of the hiring entity's business.

(C) The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

Stated Legislative Intent: Enshrine Dynamex. The Legislature made a specific point of declaring that AB5 was enacted to enshrine ***Dynamex*** in California law, in order to protect workers from the predations of hiring entities:

> "[T]he Court [in Dynamex] cited the harm to misclassified workers who lose significant workplace protections, the unfairness to employers who must compete with companies that misclassify, and the loss to the state of needed revenue from companies that use misclassification to avoid [financial and legal] obligations …."
>
> "The misclassification of workers as independent contractors has been a significant factor in the erosion of the middle class and the rise in income inequality."
>
> "It is the intent of the Legislature in enacting this act to include provisions that would codify the decision of the California Supreme Court in Dynamex and would clarify the decision's application in state law."
>
> "It is also the intent of the Legislature in enacting this act to ensure workers who are currently exploited by being misclassified as independent contractors instead of recognized as employees have the basic rights and protections they deserve under the law …"
>
> "By codifying the California Supreme Court's landmark, unanimous Dynamex decision, this act restores these important protections to potentially several million workers who have been denied these basic workplace rights that all employees are entitled to under the law."

Actual Result: Reverse Dynamex

However, AB5 does nothing whatsoever to protect exploited workers or restore their basic workplace rights, because ***Dynamex*** already had done so by establishing the ABC test on April 30, 2018. Why then was AB5 necessary? That necessity lies in the vast array of worker classes *exempted* from ***Dynamex*** by AB5. Contrary to the Legislature's moral grandstanding about AB5 enshrining ***Dynamex***, AB5 actually *reversed* ***Dynamex*** for a broad class of entrepreneurial and professional workers!

There are 6 basic exempt classes, each of which has its own set of non-***Dynamex*** qualification rules:

- pre-existing statutorily exempt workers,
- certain top-tier licensed professionals,
- certain other "professional service" providers,
- licensed real estate agents and repossession agencies,
- business-to-business ("B2B") contracting, and
- subcontractors in the construction industry.

Each of these classes has its own set of very specific conditions to meet its particular exemption. For example, "professional services" in the third exemption is defined as contracts for marketing, HR administration, or graphic design; and services from travel agents, grant writers, fine artists, enrolled agents, payment processing agents, and licensed skin/nail/hair consultants. Professional services from photographers, freelance writers, editors and newspaper cartoonists also qualify, but only if that worker does not sell an "item of content" to the hiring publication more than 35 times per year. The rules are not intuitive and seem quite arbitrary, so a close reading of AB5 is *essential* before deciding that a particular worker qualifies for an exemption.

Why is Independent Contractor Status Important?

High-income entrepreneurs and professionals have immense financial incentive to maintain independent contractor status, particularly in light of the huge tax savings available ($12,500 and up annually) under the S corporation business structure. Employee status requires the worker to work as an individual, rather than as a contracting S corporation, eliminating ALL of those tax benefits.

Hiring entities also face substantial financial harm if their independent contractors are reclassified as employees. Labor Code §226.8 imposes serious penalties ($5,000 and up per violation) for hiring entities that willfully misclassify workers as independent contractors, and hiring entities are personally liable for misclassified workers' unpaid (and unwithheld) taxes. Similarly, the IRS can force any person with authority to sign checks for the hiring entity to pay *personally* the required (but unwithheld and unpaid) tax.

Business to Business Contracting

In order to limit the length of this article, I will limit my discussion to (arguably) the broadest applicable exemption: B2B contracting.

Labor Code §2750.3(e) states that ***Dynamex*** does not apply to a "bona fide business-to-business contracting relationship." This exemption requires meeting three tests. First, the B2B exemption applies only to the service provider (the worker) itself, not to the service provider's workers; those workers must be treated as employees for the service provider. Next, the contracting business (the hiring entity) has to demonstrate that all of the following (abbreviated) criteria are satisfied:

- **(A)** The service provider is free from the control and direction of the contracting business in connection with the performance of the work.
- **(B)** The service provider provides services directly to the contracting business rather than to its customers.
- **(C)** The contract is in writing.
- **(D)** The service provider has the required business license or business tax registration (if applicable).
- **(E)** The service provider maintains a separate business location from the contracting business.
- **(F)** The service provider customarily engages in an independent business providing the same type of work.
- **(G)** The service provider actually contracts with other businesses to provide its services to its own clients.
- **(H)** The service provider advertises and holds itself out to the public as available to provide its services.
- **(I)** The service provider provides its own tools, vehicles, and equipment.
- **(J)** The service provider can negotiate its own rates.
- **(K)** Consistent with the nature of the work, the service provider can set its own hours and place of work.
- **(L)** The service provider is not performing work that requires a license from the Contractor's State License Board.

Finally, the service arrangement between the parties must also pass the test set forth in *Borello v. Department of Industrial Relations* (1989) 48 Cal.3d 341 ("***Borello***").

Remember Borello?

Borello was decided 30 years ago! Why did AB5 dig up *that* case? My opinion is that the Legislature was fully aware of its political situation. It needed to reverse ***Dynamex*** for entrepreneurial and professional workers to avoid crashing the California economy. However, it also needed to keep that reversal quiet, to avoid offending its political supporters. Therefore, some watered-down test had to be substituted for the ***Dynamex*** test for these favored worker classes, without actually providing the details of that watered-down test. Citing a Supreme Court case, that few people would actually read, fit the bill.

Borello is (was) one of many California cases addressing the difference between independent contractors and employees. ***Borello*** and *Yellow Cab v. Workers Compensation Appeals Board* (1991) 226 Cal.App.3d 1288 ("**Yellow Cab**") were both cited in ***Dynamex***, although the ***Dynamex*** ABC test effectively endorsed the three-part test in ***Yellow Cab*** over the six-factor test in ***Borello***. Now that ***Borello*** is back in play, let's look at its six-part test verbatim:

"Each service arrangement must be evaluated on its facts, and the dispositive circumstances may vary from case to case. We also note the six-factor test developed by other jurisdictions which determine independent contractorship in light of the remedial purposes of the legislation. Besides the 'right to control the work,' the factors include (1) the alleged employee's opportunity for profit or loss depending on his managerial skill; (2) the alleged employee's investment in equipment or materials required for his task, or his employment of helpers; (3) whether the service rendered requires a special skill; (4) the degree of permanence of the working relationship; and (5) whether the service rendered is an integral part of the alleged employer's business. (citation.) As can be seen, there are many points of individual

similarity between these guidelines and our own traditional Restatement tests. We find that all are logically pertinent to the inherently difficult determination whether a provider of service is an employee or an excluded independent contractor …."

Remember Legislative Intent?

The ***Borello*** requirement, that "the six-factor test … [shall] determine independent contractorship in light of the remedial purposes of the legislation," matches up nicely with the ***Dynamex*** requirement that the "underlying legislative intent and objective of the statutory scheme at issue" must be considered when applying the ABC test. AB5's statement of legislative intent makes "exploited workers" the intended beneficiaries of AB5, but by doing so AB5 finesses these non-exploited entrepreneurial and professional clients out of AB5's intended beneficiary class! That, in turn, makes it far easier to demonstrate that these upper-class workers are properly classified as independent contractors.

Different IRS Rules

Please remember that the Internal Revenue Service is not bound by California law, and still could reclassify these workers as employees for federal tax purposes. There is a longstanding *Federal three-part test* for determining independent contractor status similar to the ABC test, but focusing on behavioral control, financial control, and type of relationship. Also, the "economic substance doctrine" requires that the transaction structure (in this case, as a B2B independent contractor agreement) cannot be strictly tax-based; there must be another substantial business purpose *and* a meaningful change in the parties' economic position to support that choice. If economic substance is not established, on audit the IRS can impose a 40% underpayment penalty on the taxpayer, even if the taxpayer was not negligent in making that misclassification.

How to Demonstrate Independent Contractor Status?

By reviving ***Borello***, AB5 notes that "each [B2B] service arrangement must be evaluated on its facts, and the dispositive circumstances may vary from case to case." Also, recall that AB5 (unlike ***Borello***) shifts the burden of proof to the hiring entity to demonstrate the service provider is correctly classified as an independent contractor. This tells me that each B2B contract must be tailored to the specific facts of the service provider's situation. The B2B exemption appears to be the most complicated, requiring the worker to pass at least 25 separate tests. (Attorneys are only required to pass 11 tests under AB5 – 12, if you count the Bar Exam.)

If the parties need to demonstrate that the service provider is an independent contractor, it is my opinion that the parties' working relationship must be memorialized in a writing that **(A)** describes the service provider's particular circumstances in detail; **(B)** applies those circumstances to each applicable IRS rule and AB5 test under the B2B exemption; and **(C)** explains how treating the service provider as an independent contractor under those circumstances also are consistent with the underlying legislative intent of AB5 and applicable IRS rules. ■

Robert W. Olson, Jr., has been a California licensed attorney since 1984. His practice includes mergers and acquisitions; corporate, business and commercial real estate law; estate planning; and related tax considerations.

VanConas, *continued from page 7*

Probate

Legislation introduced this year in the State Assembly brings to California the concept of a valid electronic will – i.e. a will that's created and stored in an electronic format. Several other states already have legislation that recognizes the validity of an electronic will.

AB 1667, introduced by Miguel Santiago (D-Los Angeles), was approved unanimously by the Assembly and referred to the Senate Judiciary Committee, where it has yet to receive a hearing. It may still be heard, when the second year of this legislative session begins in January 2020.

"With this evolving technology growing in popularity every day," the American Bar Association stated in an October 2018 article, "the question is no longer if all states will allow for wills and trusts to be created and passed electronically, but when." ■

Kendall VanConas is managing partner at Arnold LaRochelle Mathews VanConas & Zirbel LLP (A to Z Law). She is an AV-rated attorney and a California State Bar Certified Specialist in Estate Planning, Trust and Probate Law. A to Z Law is based in Oxnard, California, at 300 Esplanade Drive, Suite 2100. For more information, visit atozlaw.com or call 805-988-9886. The contents of this article are accurate as of Santa Barbara Lawyer's *publication deadline for this issue. Laws may have changed by publication date.*

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SCAN & VISIT

The Legal Status of Deepfake Images in California

By Robert Sanger and Sarah Sanger

Sarah Sanger

Robert Sanger

In this *Criminal Justice* column, we will look at the "deepfake" images and the legal remedies regarding such images in the context of (small "d") democratic principles. Deepfake images, that is images or videos that purport to represent actual people or events that are manufactured to show something else, are a problem and are becoming a bigger problem. This sort of disinformation can be so convincing, easily absorbed at a glance, believable and long lasting, that it can undermine the actual concept of what it means to be a democracy.

The California legislature has made a (very) modest effort to address distribution of materials that make particular use of misleading images of political candidates.[1] The Elections Code law, signed by the Governor on October 3, 2019,[2] is effective now, but an earlier 1998 version was re-enacted at the same time to take effect again January 1, 2023 if the new version is allowed to sunset.[3] We will look at the political dangers of deepfake images and then at the old and current versions of the new California Elections Code Law on the subject.

It is questionable as to whether or not criminal sanctions could be imposed for disseminating a deepfake image. The United States Supreme Court in *United States v. Alvarez*[4] decided that lying alone under the Stolen Valor Act of 2005[5] was not sufficient to justify criminal sanctions. It is arguable that lying in a situation where the lie is presented to affect the electoral process might be enough to justify criminal sanctions, but First Amendment enthusiasts may disagree. Of course, deepfake images in conjunction with false statements to federal officers,[6] statements under oath,[7] in perpetration of fraud[8] and in other contexts[9] could be criminally prosecuted. Ultimately, publication of deepfake images alone might give rise to legitimate criminal prosecution that would withstand First Amendment scrutiny but that proposition has yet to be tested.[10]

There is also a new law in California, signed by the Governor on the same day as the Elections Code law that expands the remedies for depicting an unwilling individual in certain sexual contexts to include altered depictions of such an individual "who appears, as a result of digitization, to be giving a performance they did not actually perform or to be performing in an altered depiction."[11] That law also only includes civil remedies. However, for now, the law we will consider provides civil remedies as to deepfakes that specifically affect the political process.

Deepfake Images

"You can fool all of the people some of the time and some of the people all of the time but you cannot fool all of the people all of the time." (Attributed to Abraham Lincoln)

We are becoming aware of "deepfake" images in videos and still images which sometimes not only include changing the visual image but creating a false audio. In just the latest example of the sinister use of fake images, as this goes to press, Representative Paul Gosar of Arizona tweeted a fake image of President Barack Obama purportedly shaking hands with President Hassan Rouhani of Iran.[12] This fake image was simply "photoshopped" and somewhat crudely. It included an attempt to substitute an inaccurate Iranian flag for the flag of India in the original picture behind President Obama and to superimpose President Rouhani's image over that of Manmohan Singh, India's prime minister at the time.

The fake photo has been circulated for years. Nevertheless, it was believed by Representative Gosar and he tweeted it out on January 6, 2020. One has to wonder how many other people were duped by this image and believed, or still believe, that this meeting took place. According to the *New York Times*, "The fake image has been circulating online since at least 2013, surfacing on Middle Eastern blogs and conservative websites. In 2015, it featured in a TV ad

that promoted a Republican senator for his opposition to the Iran nuclear deal." Nevertheless, Representative Gosar, who is an educated individual with a Bachelor's degree and a Doctorate in Dental Science, tweeted it out this year with the comment, "The world is a better place without these guys in power."[13]

One wonders how many other people have been fooled and may continue to be fooled by this fake image or by the many other fake images disseminated as well as those potential fake images to come. Democracy depends on the validity of the adage attributed to Lincoln.[14] To paraphrase the Lincoln adage more accurately, democracy can work as long as you cannot fool all of the people all of the time, as long as all of the people are not fooled too much of the time and as long as there are not too many people who are fooled all of the time. Democracies have turned into totalitarian regimes when those in power are able to fool more of the people most of the time. Historically, this process has involved undermining the press and the free flow of accurate information and replacing it with disinformation. Fake images can be, and recently have been, a source of disinformation.

The problem is exacerbated by the advances in Artificial Intelligence and the development of deepfake images, videos and audios. In July of last year, Ohad Fried and nine other scholars and computer experts —three from Stanford University, two from Princeton University, two from the Max Plank Institute for Informatics and three from industry—published a provocative paper.[15] Essentially, they reviewed the literature and technology relating to how a video recorded speaker can be made to appear to say something different than what they actually said. They claim to enhance the ability to make modified videos more convincing and to do so more efficiently and cheaply. They claim that their research was designed to aid the movie industry where dubbing and editing is an expensive part of movie production.

Fried and his colleagues have developed a means by which to modify both the audio and video of a subject. A video of the subject "talking head" is modified by simply changing the transcript of the original. They claim that they can "produce a realistic output video in which the dialogue of the speaker has been modified, while maintaining a seamless audio-visual flow."[16] Simply typing a new or modified monologue in text form and inputting that into their program makes subtle changes to the face to accommodate adding new words, rearranging existing words and deleting existing words. So much for Hollywood productions. But also, so much for what we can believe, for instance, in political campaigns or disinformation cam-

paigns related to elections.

"Deepfake" has now become a part of the world. Using the convenient "Fried" program or others, it is possible to create images, videos and audios that are imperceptible from a real recording of the subject. Such productions in the hands of political campaigns or foreign operatives can create the kind of disinformation that threatens the flow of accurate information upon which public opinion must be based on some level to avoid that tipping point where too many of the people are fooled some of the time or all of the time.[17] We will always have to depend on legitimate journalism to try to report the truth, and identify disinformation – as occurred with the tweet of Representative Gosar. But, it would seem that there should be some legislative response and there has been, tame as it is, in California.[18]

Elections Code § 20010 is Amended

In order to deal with this threat to democracy, the California Legislature last year passed Assembly Bill 730. It was signed into law by the Governor on October 3, 2019 and takes effect January 1, 2020 but has a sunset provision of January 1, 2023.[19] The same legislation repealed the old section 20010 which had been enacted in 1998 but, confusingly, the legislature simultaneously re-enacted that old 1998 section, with a few minor word changes, to take effect in 2023 if the new section is not continued in effect. We will look at the old version (from 1998 that will take effect again in 2023 if the current version sunsets) and the current version (which just took effect January 1, 2010).

The Old Version Re-enacted to Take Effect in 2023 if the Current Version Sunsets

Enacted in 1998 and operative again on January 1, 2023 if the current version sunsets, Elections Code section 20010[20] was designed to deal with a more limited problem (the kind of rudimentary Photoshopping that occurred even in the more recent case of Representative Gosar's fake image). As such, the "old version" (hereinafter referring to the version enacted in 1998 and revised as a contingency for 2023) prohibits persons or organizations from producing, distributing, publishing or broadcasting "campaign material" with "actual malice" that contains either (1) an image of another person(s) superimposed on the picture/photograph of a candidate for public office; or (2) an image of a candidate for public office superimposed on a picture or photograph of another person.[21] "Actual malice" is defined as "knowledge that the image of a person has been superimposed on a picture or photograph to create a false representation, or a reckless disregard of whether or not the image of a person has been superimposed on a picture or photograph to create a false representation."[22] Subdivision (a) only applies to "campaign materials," which include, but are not limited to "any printed matter, advertisement in a newspaper or other periodical, television commercial, or computer image."

Subdivision (b) provides an exception to this prohibition for pictures or photographs which may be produced, distributed, published or broadcasted, but only if the following statement appears: "This picture is not an accurate representation of fact." The statement must appear in the largest point size type used elsewhere in the campaign material.[23]

Subdivision (d) provides two additional exemptions to section 20010. First, section 20010 does not apply to those who hold a license granted pursuant to the Federal Communications Act of 1934 (47 U.S.C. § 151, et seq.). Second, it exempts "the publisher or an employee of a newspaper, magazine, or other periodical that is published on a regular basis for any material published in that newspaper, a magazine, or other periodical."[24] Subdivision (d)(2) has an exception to the exemption where the newspapers, magazines, or other periodicals publishes campaign advertising or communication as defined by Elections Code section 304 as its "primary purpose," including newspapers, magazines or other periodicals that are authorized by "a candidate or a candidate controlled committee," "a committee formed primarily to support or oppose a ballot measure," or a committee formed "for the purpose of advocated the election or defeat of a qualified candidate or ballot measure."

This old version of section 20010 provides remedies for registered voters and for the candidates. First, registered voters may seek a temporary restraining order and an injunction "prohibiting the publication, distribution, or broadcasting of any campaign material in violation of this section."[25] The candidate for public office whose likeness appears in the prohibited picture or photograph may bring a civil action against whoever produced, distributed, published, or broadcast" the prohibited picture or photograph.[26] "The court may award damages in an amount equal to the cost of producing, distributing, publishing, or broadcasting the campaign material that violated this section, in addition to reasonable attorney's fees and costs."[27]

The Current (New) Version (effective until 2023)

Under the current (new) version of § 20010 effective until January 1, 2023, the new technology (including deepfake audio video productions) would be covered and remedies are expanded (with qualifications), however, time limits are imposed and some evidentiary hurdles are added. The current version is the result of compromises and it shows.

The current version provides that within 60 days of an election in which a candidate will appear on the ballot, a person, committee, or other entity may not distribute with actual malice "materially deceptive audio or visual media . . . of the candidate with the intent to injure the candidate's reputation or to deceive a voter into voting for or against the candidate."[28] A "committee" refers to any person(s) who, directly or indirectly, receive contributions of $2,000 or more in the calendar year, make independent expenditures or $1,000 or more in a calendar year, or make contributions of $10,000 or more in a calendar year "to or at the behest of candidates or committees."[29]

Subdivision (e), defines "materially deceptive audio or visual media" as "an image or audio or video recording of a candidate's appearance, speech, or conduct that has been intentionally manipulated in a manner" such that both (1) it would "falsely appear to a reasonable person to be authentic" and (2) it would "cause a reasonable person to have a fundamentally different understanding or impression of the expressive content of the image or audio or video recording than that person would have if the person were hearing or seeing the unaltered, original version of the image or audio or video recording."

Subdivision (b)(1) provides the only exception to subdivision (a)'s prohibition. If the audio or visual media includes a disclosure that states, "This [image, video or audio] has been manipulated."[30] Subdivision (b)(3) specifies how the disclosure statement must appear in visual media and audio only media.

There are three exemptions to this version of section 20010. First, the section still does not apply to radio or television broadcasting stations that broadcast the materially deceptive media prohibited by section 20010 "as part of a bona fide news cast, news interview, news documentary, or on-the-spot coverage of bona fide new events."[31] However, under the current law the broadcast must "clearly acknowledge[ ] through content or a disclosure, in a manner that can be easily heard or read by the average listener or viewer, that there are questions about the authenticity of the materially deceptive audio or visual media."[32] Another exemption applies to internet and print media. The current law does not apply to an "internet website" or "a regularly published newspaper, magazine or other periodical of general circulation" that "routinely carries news and commentary of general interest" that published the prohibited media as long as "the publication clearly states that the materially deceptive audio or visual media does not accurately represent the speech or conduct of the candidate."[33] Yet another exemption applies to satire or parody.[34]

Finally, the current law does not apply to a radio or television broadcasting station "when it is paid to broadcast materially deceptive audio or visual media."[35] In other words, radio and television are not held responsible for deceptive paid advertisements. This then seems to indicate that internet and print media may be liable for paid advertisements that are deceptive unless they include the disclaimer. Although Section (d)(1) states that the current law will not "alter or negate any rights, obligations, or immunities of an interactive service provider" under 47 U.S.C. section 230 ("Protection for private blocking and screening of offensive material").

Subdivision (c) provides remedies for candidates for elective office "whose voice or likeness appears in a materially deceptive audio or visual media" that was distributed in violation of section 20010.

Subdivision (c)(1) provides for injunctive and equitable relief and section (c)(2) provides for an action for general and special damages. Subdivision (c)(3) provides that the burden of proof in any civil action under this section is on the plaintiff who must establish the violation through "clear and convincing evidence." The current version is not limited to campaign materials as was the old version. All other things being equal (while they are not), this would be an improvement although the protection is still related to information related to the political process. Of course, neither the current nor the old statute apply to other deepfake situations that can be extremely harmful. Deepfake attacks on celebrities or on individuals who are targeted by someone of ill will are not covered by these statutes. Nor are historical figures or people who are deceased covered. But, for the purposes of securing some protection against disinformation that can harm the democratic process, the current law does expand the protection incrementally.

The current version prohibits "materially deceptive audio or visual media" which has a specific definition, whereas the old version only prohibits pictures that have been superimposed with other images. This updates the statute to address the current technology and would apply to the deepfake media, including audio, where the old statute would not. On the other hand, the current version only prohibits the distribution of the media, whereas the old version prohibits producing, distributing, publishing or broadcasting the pictures or photographs. In addition, the current version applies only within 60 days of an election, whereas the old version does not have a time restriction.

The current version also changes what must be proven and establishes a burden of proof. In both versions, to prevail, it must be shown that the person acted with actual

Continued on page 22

New Insurance Regulations

By Karl Susman

Karl Susman

On November 5, 2019 a notice came out from the California Department of Insurance regarding immediate changes to insurance company underwriting guidelines and claims handling resulting from a bill signed by California Governor Gavin Newsome. This bill is called SB 240 and among many things adds a new California Insurance Code section 1406(a)(1) which immediately impacts both how insurance companies in California can underwrite insurance policies and how claims must be handled. Below are the top five most significant changes to how an insurer may underwrite insurance policies in California:

Time limit to Collect Additional Living Expenses (ALE) - In the event of a covered loss relating to a state of emergency, coverage for additional living expenses (or loss of use) shall be for at least 24 months from the inception of the loss, but shall be subject to other policy provisions. An insurer shall grant an extension of up to 12 additional months, for a total of 36 months, if an insured acting in good faith and with reasonable diligence encounters a delay or delays in the reconstruction process that are the result of circumstances beyond the control of the insured. Circumstances beyond the control of the insured include, but are not limited to, unavoidable construction permit delays, lack of necessary construction materials, and lack of available contractors to perform the necessary work. Additional extensions of six months shall be provided to policyholders for good cause.

Rebuilding in Current Location or Rebuilding or Replacing in a New Location - An insured may use their replacement cost insurance coverage to (1) rebuild at the current location, (2) rebuild at a new location, or (3) purchase an already built home at a new location. Replacement cost coverage shall include payment of the building code upgrade coverage, even if the insured does not incur building code upgrade costs, if the insured chooses to purchase an already built property in another location. However, the payment shall not exceed the replacement cost, including the building code upgrade cost, and any extended replacement cost coverage, if applicable, to repair, rebuild, or replace the insured structure at its original location.

Ability to Combine Coverages - In the event of a claim relating to a state of emergency, an insured under a residential property insurance policy shall be permitted to combine payments for claims for losses up to the policy limits for the primary dwelling and other structures, for any of the covered expenses reasonably necessary to rebuild or replace the damaged or destroyed dwelling, if the policy limits for coverage to rebuild or replace the primary dwelling are insufficient.

Non-Renewal After a Declared Disaster - The insurer shall offer to, for at least the next two annual renewal periods, but no less than 24 months of coverage from the date of the loss, renew the policy in accordance with paragraph (1) if the total loss to the primary insured structure was caused by a disaster, as defined in subdivision (b) of Section 1689.14 of the Civil Code, the loss was not also due to the negligence of the insured, and losses have not occurred subsequent to the disaster-related total loss that relate to physical or risk changes to the insured property that result in the property becoming uninsurable.

Non-Renewal or Cancellation within Fire Perimeter - An insurer shall not cancel or refuse to renew a policy of residential property insurance for a property located in any ZIP Code within or adjacent to the fire perimeter, for one year after the declaration of a state of emergency, based solely on the fact that the insured structure is located in an area in which a wildfire has occurred. This prohibition applies to all policies of residential property insurance in effect at the time of the declared state of emergency.

Because this Bill was an Urgency Bill, it means that its provisions were effective immediately. These changes affect existing insurance policies that have previously been priced and sold by insurance companies throughout California. For this reason insurers now have larger financial exposure than they did a short time ago. With the property insurance market in a tailspin from multiple years of catastrophic wildfire claims, it remains to be seen how this additional financial exposure bestowed on them with the stroke of a pen will affect California insurer's ability to offer insurance

policies going forward. These new provisions are designed to assist consumers and in the short term that may certainly be the case, however it fails to address the greater picture of how the private insurance industry can or will pay for these additional wildfire losses and seemingly inevitable claims that follow. This band-aid approach hopefully will bring to the forefront the desperate need we have to find a way to pay for these yearly wildfires, while at the same time maintain profitability for the insurance industry so they may continue to sell insurance products that protect millions of insureds in California. ■

Karl Susman is an insurance agency expert for standard of care as well as best practices for both independent insurance agencies and exclusive/captive insurance agencies. Actively engaged in the insurance business as an insurance agent and broker for over 26 years, he is licensed in many states and willing to travel. His expert witness work is evenly split between plaintiff and dependent. Please visit here: https://www.jurispro.com/expert/karl-susman-cic-lutcf-api-cfs-4597 to learn more or contact him at karl@susmaninsurance.com.

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Betty Jeppesen, **Farfalla Borah**, and **Stacey Lydon** are the newest members of **The Santa Barbara & Ventura Colleges of Law (COL)** Board of Trustees, the governance body that oversees the region's oldest and largest independent law school.

A 1980 graduate of the school's Santa Barbara campus and a member of the CA State Bar, Jeppesen brings to the board more than 38 years of experience as a practicing attorney—experience in real estate, contract, aircraft leasing law, and civil litigation. Currently she owns her own practice in Santa Barbara and is the founding co-chair of COL's Alumni Council. Other board posts include the Santa Barbara County Bar Association, Santa Barbara Women Lawyers, Santa Barbara Women Lawyers Foundation Board, and the Santa Barbara County Bar Association Foundation Board.

Borah, too, is a seasoned veteran of governance, currently serving on the Goleta Water District Board. A 1993 graduate of COL and member of the CA State Bar, Borah completed a 25-year career at University of California, Santa Barbara (UCSB) in 2018, most recently serving as UCSB's manager for employee and labor relations.

Lydon also brings higher education expertise to COL. She is currently the associate director of scholarships and alumni engagement for the University of California Education Abroad Program and has been with the UC system since 2009. Additionally, she serves on the Santa Barbara Neighborhood Advisory Council, the Network for Africa board, and is president-elect for the Rotary Club of Santa Barbara.

Both Borah and Lydon were elected this fall with Jeppesen seated at the board's annual meeting in May. Jeppesen currently serves as chair of the board's Advancement and Alumni Committee. Lydon will join her on that committee with Borah assigned to the school's Academic Affairs Committee.

The newest additions join a diverse board of professionals representing numerous disciplines and experiences. Chair Johnston is a partner with Mullen & Henzell. Other trustee attorneys include Vice Chair Carmen Ramirez who serves on the Oxnard City Council; Judge Michele Castillo from the Ventura Co. Superior Court; and Catherine Swysen (J.D. 1994), managing partner with Sanger, Swysen & Dunkle. Trustees from higher education include Dr. Nehmer; Dr. Michael Horowitz, president of TCS Education System; Dr. Bernie Luskin, President and CEO of LuskinInternational and past chancellor of the Ventura Co. Community County District; Don Packham, Chief of Human Resources for TCS Education System; and Dr. Richard Winn, president, Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges.

2020 Bench and Bar Meetings

As Presiding Judge, the Honorable Michael Carrozzo has set the schedule for the Bench and Bar Meetings that will take place as follows:

February 20, 2020 • May 21, 2020 • August 27,2020 • November 19, 2020

Each meeting will be held at the Santa Barbara Court Video Conference Room in the Figueroa Division of the Santa Barbara Courthouse.

These Bench and Bar Meetings provide a forum for local members of the Bar to engage in an informal dialogue with the presiding judge as a means of raising issues and concerns that may not otherwise be addressed. All attorneys and paralegals are welcome to attend.

For any practitioners wishing to submit agenda items for consideration before any of the scheduled meetings, please email those items to Ian Elsenheimer: Ielsenheimer@aklaw.net

Sanger and Sanger, *continued from page 16*

malice. However, in the old version it was specified that actual malice meant acting with knowledge or with a reckless disregard of whether the modification of the image was modified. In the current version, actual malice is not defined, however, proof of additional mental states is imposed in that it must be shown that the modified materials must have an effect on the reasonable voter. Also, the current version requires proof by clear and convincing evidence, while there was no standard of proof in the old version.

Conclusion

The disclosure statements both in the old and current versions of Section 20010 are somewhat stilted, perhaps not easy to understand, particularly for the most gullible, and are in English only. The current version requires: "This [image/video/audio] has been manipulated." The old version requires: "This picture is not an accurate representation of fact." It would be better to say, "This is a fake [image/video/audio]; these things did not really happen." It would also be better to require that all warnings be presented in English as well as any language used in the presentation and any language used significantly in the publication itself.

The remedies are more limited in the current version, which only allows for remedies by the candidates who appear in the doctored media, and does not provide for a measure of damages as provided in the old version. The old version allowed for any registered voter to obtain a temporary restraining order and an injunction, while the candidate could see damages which would include "an amount equal to the cost of producing, distributing, publishing, or broadcasting the campaign material that violated this section, in addition to reasonable attorney's fees and costs." (§ 20010, subd. (c)(2).) Giving registered voters standing to enforce the section by TRO and injunction with a possible award of attorneys' fees (but no damages) seems appropriate. Making the damages recoverable by candidates potentially significant could provide a deterrent effect.

The big issue is the limited effect of both the old and current versions. In part, the current version is even more restrictive than the old in that it is limited to 60 days before the election. But the even bigger problem is that this is only a start. Publication of deepfake (or even old-school fake) material can be harmful in so many ways without being "materially deceptive audio or visual media . . . of the candidate with the intent to injure the candidate's reputation or to deceive a voter into voting for or against the candidate."[36] Deepfake or other disinformation relating to current affairs or even history can defeat the principle that democracy requires that the people not be fooled – or, at least, that not too many people be fooled, too much of the time.

This is a matter of balancing. Freedom of expression under the First Amendment rightly bars restriction on speech. The Supreme Court of the United States, in *United States v. Alvarez*,[37] found the Stolen Valor Act of 2005 unconstitutional suggesting that a person cannot be convicted of a crime for lying. However, both the old and current versions of section 20010 provide only for civil sanctions for the public dissemination of deepfake or fake images, audio or visual material without disclaimers and only on matters related to political candidates. It does seem that matters of such importance to the governance of the state and the country are matters that can be regulated through civil remedies. It also seems that, if there is to be regulation, it could go beyond a prohibition on false images of a candidate 60 days before election.

Social media companies are taking on this difficult issue in a time of increased digital manipulation. Without compromising the Free Speech protections of the First Amendment, it may be appropriate for there to be additional measured legislative intervention. To do nothing in this age of Artificial Intelligence and the resultant inexpensive and persuasive deepfake technology, runs the risk of allowing that technology, and the people behind it, to fool enough of the people enough of the time to upset the balance of factual knowledge upon which democratic principles depend. ■

Robert Sanger *is a Certified Criminal Law Specialist and has been practicing as a litigation partner at Sanger Swysen & Dunkle in Santa Barbara for over 45 years. He is a Professor of Law and Forensic Science at the Santa Barbara and Ventura Colleges of Law. Mr. Sanger is a Fellow of the American Academy of Forensic Sciences (AAFS) and Past President of California Attorneys for Criminal Justice (CACJ), the statewide criminal defense lawyers' organization. He is a Director of Death Penalty Focus and an Associate Member of the Council of Forensic Science Educators (COFSE).* ***Sarah Sanger*** *is an Associate Attorney with Sanger Swysen & Dunkle assisting primarily on capital cases. She is a graduate of the University of California Santa Barbara and a Member of the Phi Beta Kappa Honors Society. Ms. Sanger obtained her law degree at the University of California at Berkeley School of Law. She previously clerked for the Office of the State Public Defender as well as the Los Angeles and Santa Barbara Public Defender Offices. She is a Member of CACJ, the Los Angeles Women's Lawyers Bar Association and the California Public Defender's Association.*

ENDNOTES

1 Cal. Election Code sec. 20010(a).
2 https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB730
3 Cal. Election Code sec. 20010(e), as amended effective January 1, 2023.
4 *567* U.S. 709 (2012) (Deciding that the Act as written was unconstitutional but with a plurality deciding on the basis that lying alone cannot be a basis for a criminal prosecution without more, and the joining Justices concluding that the statute failed to use less restrictive means.)
5 18 U.S.C. § 704.
6 18 U.S.C. § 1001.
7 18 U.S.C. § 1621.
8 See, e.g., 18 U.S.C. § 1341 (mail fraud) or 18 U.S.C. § 1343 (wire fraud).
9 E.g., if the use of the images represented a conspiracy to violate civil rights under 18 U.S.C. §§ 241 and 242 or if it amounted to unattributed false, inflammatory, or scurrilous campaign literature that calls for the election or defeat of a federal candidate it might result in a criminal violation of 52 U.S.C. § 30120.
10 H.R.3230, "Defending Each and Every Person from False Appearances by Keeping Exploitation Subject to Accountability Act of 2019" (sporting the acronym "DEEPFAKE") has been introduced this session by Rep. Yvette Clarke [D-NY-9] and would impose civil and criminal penalties beyond the realm of politics. It remains in Committee.
11 Cal. Civ. Code § 1708.86.
12 See, Linda Qui, "Republican Congressman Shares Fake Image of Obama and Iranian President," New York Times, January 6, 2020, https://www.nytimes.com/2020/01/06/us/politics/paul-gosar-obama-iran.html.
13 By the way, Gosar is right that Barack Obama is no longer the President of the United States but, it turns out, Hassan Rouhani, falsely superimposed in the picture, is still the President of Iran.
14 If he said it, it was not documented contemporaneously and harkens to an earlier French adage replicated in Diderot's *Encyclopedie*. And whether we were fooled into believing that Lincoln said this, it is still a fundamental belief of those who endorse democracy.
15 Ohad Fried, et al., "Text-based editing of talking-head video," 38 ACM Transactions on Graphics 681 (July2019).
16 *Id*.
17 Space does not permit recounting the mass confusion created by "fake" information. Plato contemplated the use of deception by the "philosopher kings" in the *Republic*. Malign instances can be found in almost all, if not all, totalitarian regimes. But benign instances also occur, such as Orson Wells' "War of the Worlds" radio broadcast.
18 This is the *Criminal Justice* column but we will address the recent California legislation that includes only civil remedies. Laws relating to fraud and conspiracy could lead to criminal prosecutions by virtue of using deepfake media but, given the emergent nature of the problem, we will focus on California's current response.
19 https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB730
20 All references to statutes are to the California Elections Code unless otherwise stated.
21 § 20010, subds. (a) and (e) (eff. Jan. 1, 2023).
22 *Id*. at subd. (a).
23 *Ibid*.
24 *Id*. at subd. (d)(2).
25 § 20010, subd. (c)(1) (eff. Jan. 1, 2023).
26 *Id*. at subd. (c)(2).
27 *Ibid*.
28 § 20010, subd. (a) (eff. Jan. 1, 2020).
29 Gov. Code, § 82013, subds. (a)-(c).
30 § 20010, subds. (b)(1), (b)(2)(A)-(C) (eff. Jan. 1, 2020).
31 *Id*. at subd. (d)(2).
32 *Ibid*.
33 *Id*. at subd. (d)(4).
34 *Id*. at subd. (d)(5).
35 *Id*. at subd. (d)(3).
36 § 20010, subd. (a) (eff. Jan. 1, 2020).
37 *567* U.S. 709 (2012).

The SBCBA Family Law Section Presents:

Protecting the Privacy of a Public Figure/Celebrity During Divorce

When:
February 6, 2020 at Noon

Where:
Santa Barbara College of Law

MCLE:
1.0 Hour of General MCLE

Speaker(s):
Christopher C. Melcher, CFLS and Anthony D. Storm.

About the Event:
This program will delve into crucial considerations an attorney should be aware of when representing individuals of notoriety, including practice tips on keeping confidential information out-of-the-public-stream, ensuring there is limited access to the client information, alternatives to litigation, security measures, inter-office policies, what to do if information leaks into the public realm, controlling the narrative, strategies to keep the press at bay, and advising your client, security personnel, and their family office.

Price:
$30 for members/$35 for non-members

Contact Information/R.S.V.P.:
Mail checks payable to the Santa Barbara County Bar Association c/o Renee M. Fairbanks, CFLS, 226 E. Canon Perdido Street, Ste. F, Santa Barbara, California 93101.

Joe Billings and Connor Cote

Brad Brown, Tom Hinshaw, Betty L. Jeppesen

The SBCBA Joint Board Meeting with 2019 & 2020 Board Members, MCLE Section Heads and various committee members, hosted by the Law Office of Alan H. Fenton, PC.

Left: Elizabeth Diaz, Chad Prentice

Thanks to hosts Alan and Annie Fenton

John Reyes, Lauren Udden, Jim Griffith

Santa Barbara County Bar Association
2020 Membership Application

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Your member dues include a subscription to *Santa Barbara Lawyer* and the e-Newsletter.

SCHEDULE OF DUES FOR 2020

Active Members	$130
Student Members	$30
New Admittees (First Year Attorneys Only)	$00
Affiliate Members (non-Attorney members only)	$65
Non-Profit	$65
Inactive/Retired	$65
Total amount enclosed	$_____.__

AREAS OF INTEREST OR PRACTICE (check box as applicable)

- ☐ ADR
- ☐ Civil Litigation
- ☐ Criminal
- ☐ Debtor/Creditor
- ☐ Elder Law
- ☐ Employment Law
- ☐ Estate Planning/Probate
- ☐ Family Law
- ☐ In-House Counsel & Corporate Law
- ☐ Intellectual Property/Tech. Business
- ☐ Real Property/Land Use
- ☐ Taxation

Mail completed form along with check to:
Santa Barbara County Bar Association, 15 West Carrillo Street, Suite 106, Santa Barbara, Ca 93101 Tel: (805)569-5511

FOR RENT

Spacious office in suite with 5 attorneys, located in beautiful La Arcada (1114 State Street). Also available: up to 2 paralegal/secretary offices. *Shared amenities included in rent:* receptionist, waiting room, conference room, photocopier/scanner, fax, and kitchen. *Also included in rent*: internet, telephone (keep your phone numbers), shredding service, legal library, janitor, photocopy supplies, kitchen supplies, and utilities. *All-inclusive monthly rent* of $2,300 to $2,600, depending on space occupied. Call William Beall at 805-966-6774.

* * *

MULLEN & HENZELL L.L.P. SEEKING EXPERIENCED ESTATE PLANNING ASSOCIATE

Candidate must have strong credentials, analytical skills, excellent oral and written communication skills, and be interested in performing high quality legal work. Must be current member of CA Bar. Tax experience a plus.

Our firm offers an excellent benefits package. Associate salaries, bonuses and benefits are competitive with other leading firms in the area. Compensation is commensurate with level of education, knowledge and experience.

No calls please. Submit resume and cover letter via email today. We look forward to meeting you!

Susan A. Subject
Attn: Estate Planning Associate
Mullen & Henzell L.L.P.
112 E. Victoria Street
Santa Barbara, CA 93101
Recruit@mullenlaw.com

Don't miss out! Have you renewed your membership in the Santa Barbara County Bar Association? If not, this will be your last issue of the *Santa Barbara Lawyer* magazine. Please see page 25 for the 2020 renewal application.

BUSINESS/TRANSACTIONAL ASSOCIATE SOUGHT

Price, Postel & Parma, a long-standing law firm in Santa Barbara, is seeking a transactional associate with superior credentials, 3-5 years of significant experience and a current license to practice in the State of California. Compensation is commensurate with skills, education and experience. Please submit a cover letter and resume via email to Ian Fisher at ifisher@ppplaw.com.

* * *

DOWNTOWN OFFICE SPACE AVAILABLE

Private downtown office for rent, large windows, in shared suite. Rare opportunity for a single office with a shared reception area. Available immediately—furnished or unfurnished—$1,250. 2 blocks from the courthouse, parking, elevator, AC and utilities included. If interested, please email downtownofficespaceforrent@gmail.com.

* * *

SEEKS ASSOCIATE ATTORNEY & TRIAL ATTORNEY

Highly respected Santa Barbara civil litigation law firm, seeks experienced litigation attorney with knowledge of and experience in insurance law as well as associate attorney. Candidate must have, excellent verbal and writing skills, enjoy litigation and bring a strong team work ethic.

Competitive benefits include health and dental insurance, free parking and 401k plan. Respond with resume, cover letter and references to kcallahan@hdlaw.com.

* * *

TWO OFFICES FOR RENT

For rent (available November 1) two professional furnished offices (11'8" x 8'8" for $1,200.00 and 11'8" x 10'9" for $1,350.00). Includes a shared reception, two conference rooms, kitchen and workroom with copier. Located in a great Santa Barbara downtown location across from the Courthouse and above Cafe Ana.

Please contact Howard Simon @hsimon@jhslawsb.com for further information.

For information on upcoming MCLE events, visit SBCBA at http://www.sblaw.org//

2020 SBCBA SECTION HEADS

Alternative Dispute Resolution
Dr. Penny Clemmons 687-9901
clemmonsjd@cs.com

Bench & Bar Relations:
Ian Elsenheimer 963-8611
ielsenheimer@aklaw.net

Civil Litigation
Mark Coffin 248-7118
mtc@markcoffinlaw.com

Criminal
Jeff Chambliss 895-6782
Jeff@Chamblisslegal.com

Debtor/Creditor
Carissa Horowitz 708-6653
cnhorowitz@yahoo.com

Employment Law
Alex Craigie 845-1752
alex@craigielawfirm.com

Estate Planning/Probate
Connor Cote 966-1204
connor@jfcotelaw.com

Family Law
Renee Fairbanks 845-1604
renee@reneemfairbanks.com
Marisa Beuoy 965-5131
beuoy@g-tlaw.com

In House Counsel/Corporate Law
Betty L. Jeppesen 450-1789
jeppesenlaw@gmail.com

Intellectual Property
Christine Kopitzke 845-3434
ckopitzke@socalip.com

Mandatory Fee Arbitration
Eric Berg 708-0748
eric@berglawgroup.com
Naomi Dewey 979-5160
naomi@trusted.legal
Vanessa Kirker Wright 964-5105
vkw@kirkerwright.com

Real Property/Land Use
Joe Billings 963-8611
jbillings@aklaw.net

Taxation
Peter Muzinich 966-2440
pmuzinich@gmail.com
Cindy Brittain 695-7315
cindy.brittain@kattenlaw.com

THE OTHER BAR NOTICE

Meets at noon on the first and third Tuesdays of the month at 330 E. Carrillo St. We are a state-wide network of recovering lawyers and judges dedicated to assisting others within the profession who have problems with alcohol or substance abuse. We protect anonymity. To contact a local member go to http://www.otherbar.org and choose Santa Barbara in "Meet-

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