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SBCBA Awards Its First DEI Scholarships

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2025 Officers and Directors

MICHELLE ROBERSON
President
Sierra Property Group, Inc.
5290 Overpass Rd., Bldg. C
Santa Barbara, CA 93111
(805) 692-1520 *102
michelle@sierrapropsb.com

BRADFORD BROWN
President Elect & Secretary
Law Offices of Bradford Brown, APC
735 State St., Ste. 418
Santa Barbara, CA 93101
(805) 963-5607
brad@bradfordbrownlaw.com

RICHARD LLOYD
Chief Financial Officer
Cappello & Noël, LLP
831 State St.
Santa Barbara, CA 93101
(805) 564-2444
rlloyd@cappellonoel.com

ERIN PARKS
Past President
Law Office of Erin R. Parks
625 E. Victoria St., Garden Suite
Santa Barbara, CA 93101
(805) 899-7717
law@erinparks.com

* * *

BARBARA CARROLL
Santa Barbara County Counsel
105 E. Anapamu St., Rm. 201
Santa Barbara, CA 93101
(805) 568-2950
bcarroll@countyofsb.com

JOHN DERRICK
21 E. Pedregosa St.
Santa Barbara, CA 93101
(805) 284-1660
jd@johnderrickADR.com

THOMAS FOLEY
Foley, Bezek, Behle & Curtis
15 W. Carrillo St.
Santa Barbara CA 93101
(805) 962-9495
tfoley@foleybezek.com

TAYLOR FULLER
Herring Imming, LLP
559 San Ysidro Rd., Ste. G
Santa Barbara, CA 93108
(805) 983-6452
tfuller@herringimming.com

CASSANDRA GLANVILLE
Apex Family Law
7 W. Figueroa St., Ste. 300
Santa Barbara, CA 93101
(805) 770-2015
cassandra@apexfamilylaw.com

ANGELA GREENSPAN
Fauver Large
Archbald & Spray, LLP
820 State St., Ste. 4
Santa Barbara, CA 93101
(805) 966-7499
agreenspan@FLASLLP.com

SCOTT A. JASKE
Thyne Taylor Fox Howard, LLP
205 E. Carrillo St., Ste. 100
Santa Barbara, CA 93101
(805) 963-9958
sjaske@ttfhlaw.com

TERESA MARTINEZ
Office of County Counsel
105 E. Anapamu St., # 201
Santa Barbara, CA 93101
(805) 568-2950
teresamartinez@co.santa-barbara.ca.us

MATTHEW MOORE
Moore Family Law & Mediation
148 E. Carrillo St.
Santa Barbara, CA 93101
(805) 697-5141
matthew@moorefamlaw.com

ROBIN OAKS
Attorney at Law
Santa Barbara, CA
(805) 685-6773
robin@robinoaks.com

NICOLETTE PAULLIN
Snyder Burnett Egerer, LLP
3757 State St., #2A
Santa Barbara, CA 93105
(805) 692-2800
npaullin@sbelaw.com

Staff

MARIETTA JABLONKA
Executive Director
15 W. Carrillo St., Ste. 106
Santa Barbara, CA 93101
(805) 569-5511
Fax: (805) 569-2888
sblawdirector@sblaw.org

CHRISTY BARKEY
Legal Assistant

Santa Barbara Lawyer

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CONTRIBUTING WRITERS
Claire K. Mitchell
Renee Nordstrand-Black
Alex Craigie
John Derrick
Robert M. Sanger
Robin Oaks

CO-EDITORS
Taylor Fuller
Scott A. Jaske

ASSISTANT EDITORS
Nicole Coulter
Marietta Jablonka

MOTIONS EDITOR
Michael Pasternak

PHOTO EDITOR
Mike Lyons

GRAPHIC DESIGN
Baushke Graphic Arts

* * *

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Submit all **ADVERTISING** to **SBCBA**, 15 W. Carrillo Street, Suite 106, Santa Barbara, CA 93101
phone (805) 569-5511
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Santa Barbara County Bar Association
SBCBA

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SBCBA Awards Its First DEI Scholarships

By Claire K. Mitchell

While the federal government is busy cutting Diversity Equity and Inclusion ("DEI") programs, the Santa Barbara County Bar Association is just getting started. In March, the Bar Association's DEI Task Force awarded its first set of financial scholarships (the "Scholarships") to three highly deserving recent law school graduates—Becky Hoffman, Dina Ontivares, and Gabriela Garcia Tellez.

Thanks to members of the Bar that donated to this year's scholarship fund, each of these women has been awarded a $1,100 scholarship to help cover expenses associated with taking the California Bar exam. Scholarship recipient Gabriela Garcia Tellez reflected, "Sitting for the California Bar is a profound privilege that comes with its own hurdles, one of those being a financial hurdle. I am beyond grateful to the Santa Barbara Bar Association, the DEI Task Force, and donors who have helped overcome the financial hurdle, allowing me to fully focus on passing the bar."

The Scholarships are available to individuals who are either (1) a member of a diverse population or group that historically has been underrepresented in the legal profession; or (2) have demonstrated a long-standing commitment to diversity that will be furthered by a DEI Scholarship award. Funds awarded are intended to help recipients cover costs associated with taking the LSAT or the California Bar.

Applicants are evaluated based on their resumes and written responses to several short essay questions designed to assess the applicant's commitment to furthering diversity based on their past experiences and their plans for when they become attorneys, including whether they intend to practice law in Santa Barbara County.

The Scholarship Committee was very impressed by this year's applicants, but ultimately, Ms. Hoffman, Ms. Ontivares, and Ms. Tellez—all of whom are graduates of the Santa Barbara Colleges of Law—stood out for their commitments to furthering diversity here in Santa Barbara County.

Ms. Hoffman, a proud member of the LGBTQ community, has spent the past three years working full-time in our county's criminal courts, while attending law school at night and raising three kids with her wife and their children's father. She is currently working at the Santa Barbara District Attorney's office as a post-bar law clerk, which she hopes leads to a career as a Deputy District Attorney, where she can model the possibility of being a queer woman in a position of influence. She reflected, "The District Attorney's office represents the people of California, and the people of our community include all identities, genders, economic statuses, ages, education levels, and nationalities. Our community is full of LGBTQ people who at some point may be a victim of a crime or know someone who is. I am dedicated to truly representing 'the people' of Santa Barbara by living my queer identity authentically and openly, as I have during my time at the court."

Claire K. Mitchell

Ms. Ontiveras, a Chicana indigenous person, has worked in the social services sector for over 25 years and aspires to provide direct legal services to people who are disenfranchised, limited in their English-language skills, and/or live within a lower socioeconomic level. She is currently employed by the Coast Caregiver Resource Center, a Cottage Rehabilitation Hospital Program, where she provides caregiver supportive services to people who care for loved ones suffering from either a brain or physical impairment. She is also President of the Board of Directors of the Nyeland Acres Mutual Water Company, which provides potable and safe drinking water to a small, disadvantaged community consisting of approximately 975 residents. In that role, she recently secured a grant of $714,000 for the replacement of 1080 linear feet of a 5" stainless steel leaky pipe to ensure the continued provision of safe drinking water. She hopes to apply her specialized knowledge to working in environmental or water law. She is also interested in working with aging adults, potentially by specializing in conservatorships and estate planning for middle- and low- income individuals.

Ms. Garcia Tellez is a Latina woman who immigrated to Santa Barbara with her mother and younger brother when she was four years old. She currently works for the Legal Aid Foundation of Santa Barbara. During school, she participated in a clinic funded and run by both the People's

Continued on page 25

Changes in the Law Affecting Santa Barbara Residents

By Renee Nordstrand-Black

When I became a lawyer over 35 years ago, my first job was working with my father in his personal injury law firm. He told me that I needed to support Consumer Attorneys of California because that organization has legislative lobbyists which support the rights of all California consumers. I took his wise advice and encourage you to do the same. This article is an update on recent contributions of that organization.

Consumer Attorneys of California, also known as **CAOC**, remains at the forefront of protecting consumers. Key alterations, such as those in California rideshare laws and uninsured motorist insurance, significantly affect everyday life and commerce. CAOC consequently continues to advocate for fair and equitable legal standards.

CAOC LEGISLATIVE RECOMMENDATIONS AND ACTIVITIES

Foster Family Agencies

CAOC strongly opposes AB 2496, which introduces significant shifts in the negligence principles that govern foster family agencies. The existing framework for negligence allows for a broad scope of accountability, enabling more protections for foster children. The proposed legislative changes would make it more challenging for children to recover damages following negligent acts by these agencies because it increases the burden of proof, possibly limiting the recourse available to affected individuals.

CAOC is monitoring tort reform legislative efforts, including attempts to limit non-economic damages from public entities. The Los Angeles City Attorney recently attempted to find a legislative author for a bill designed to cap non-economic damages at three times the actual damages or $1 million, whichever was less. CAOC led the charge against this proposal, and the bill was not introduced.

Rideshare Industry

Recent discussions in California propose significant adjustments to uninsured motorist insurance (UIM), particularly impacting the rideshare industry. Current laws require drivers to carry $1 million in coverage to protect drivers and passengers in accidents involving uninsured motorists. There is a push, however, to reduce this amount dramatically to $30,000 per individual and $50,000 per accident. Such a reduction would have profound implications for the level of financial protection available to those involved in rideshare accidents and will expose passengers and drivers to significant financial risks following collisions.

Renee Nordstrand

Fair Labor Standards

AB 2972 would alter the criteria under which overtime is calculated. This adjustment aims to provide clearer guidelines and more equitable compensation for workers. AB 1928 aims to redefine the classification of independent contractors, potentially overturning the Dynamex case. This reclassification could affect various industries, altering how businesses engage with freelance or contract workers.

Agritourism Businesses

The agritourism sector in California is seeing legislative changes that affect liability and safety standards. Bills SB 1479 and AB 2635 propose to immunize agritourism businesses—like pumpkin patches and "u-pick" farms—from certain civil liabilities. This proposed shift raises serious questions about the balance between promoting business development and ensuring visitor safety.

Summary Judgment

AB 2049 is a California Defense Counsel and California Judges Association bill that gives judges six additional days to reply to a motion for summary judgment. CAOC negotiated amendments prohibiting the defense from raising new evidence, material facts, or a separate statement with their reply. These amendments will also prohibit multiple motions for summary judgment without good cause.

Self-Insurance

As originally proposed, AB 2892 would have changed the self-insurance amounts required for vehicle fleets. Amend-

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Help Your Clients 'Cure' PAGA Violations Before It's Too Late

By Alex Craigie

If receiving a Private Attorneys General Act (PAGA) notice doesn't ruin a California employer's day, it's likely because they've never heard of PAGA.

Even employers who strive to follow California's complex wage-and-hour laws can still face legitimate claims for technical violations. While defending a PAGA action can be costly, recent amendments create a narrow but important chance to "cure" certain violations before they escalate into lawsuits. This article explains that opportunity and how your clients can use it.

Understanding PAGA

California's PAGA allows aggrieved employees to act on the state's behalf to recover civil penalties for Labor Code violations, including unpaid overtime, missed rest and meal breaks, unpaid wages, and pay statement errors. PAGA claims are popular because they let employees' attorneys bypass class certification and expose employers to large penalties for small but frequent wage-hour violations.

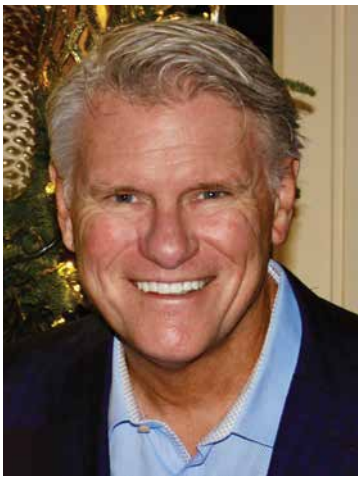
Worse, PAGA claims aren't limited to the original "aggrieved" employee. Penalties apply to each aggrieved employee and each pay period. Multiply each $100-$200 penalty by 100 employees over a few years, and lawsuits can demand seven figures for simple payroll errors.[1] It's no surprise PAGA poses an existential threat to many businesses, especially small employers.

Fortunately, not all is lost. Under Labor Code section 2699.3(c), employers have a chance to cure certain violations after receiving a PAGA notice. The window is short and the requirements are strict, but when done properly, curing can drastically limit or eliminate liability.

What is a PAGA Notice

An employee intending to bring a PAGA action must send a letter to the Labor Workforce Development Agency (LWDA), copying the employer, outlining alleged wage-hour violations giving rise to PAGA liability. The letter must explain the facts and legal theories behind the claims.

The LWDA may investigate (rare). If it declines or fails to respond within 65 days (typical), the aggrieved employee may proceed with a PAGA lawsuit.



Alex Craigie

Which Violations Are Curable?

It is now possible for an employer to cure violations for minimum wage, overtime, failure to provide rest and meal periods, expense reimbursements, and wage statements.

Although the timing and mechanism of effectively curing violations is different for small (less than 100 employees) and large (100+ employees) employers, curing violations always requires making employees "whole." Making employees whole requires:

- Pay all employees an amount sufficient to cover unpaid wages due for the prior 3 years (including meal and rest break penalties);
- Pay 7% interest on this figure;
- Pay any liquidated damages required by law; and
- Pay reasonable attorney's fees and costs (determined by the court or the LWDA).

How a Small (<100 employees) Employer Can Cure

Although California employers with fewer than 100 employees may be eligible to cure certain Labor Code violations after receiving a PAGA notice, the timeline is tight and precision is key.

Within 33 calendar days of receiving the notice, the employer may submit a confidential written proposal to the Labor and Workforce Development Agency (LWDA) explaining how it intends to cure the alleged violations.

The LWDA has 14 days to schedule a conference with the parties, which must take place within the following 30 days. At the conference, the LWDA may accept the cure, request additional information, or set a deadline (less than 45 days) for the employer to complete the cure.

If the LWDA determines the cure is facially insufficient or declines to act, the employee may file suit 65 days after the notice. The LWDA may extend that tolling period by up to 120 days.

If the cure is approved, the employer must complete it by the LWDA's deadline. A sworn notice of completion must then be served on the LWDA and the employee. This notice must include supporting documentation, such as a payroll

audit and check register if the violation involved wages.

The LWDA has 20 days to confirm whether the cure was sufficient. If challenged by the employee, the agency must hold a hearing within 30 days and issue a written determination within 20 days. The statute of limitations is tolled during this process.

How Large (>100 employees) Employers Can Cure

The cure process is different for employers with 100 or more employees. Larger employers may request an "early evaluation conference" and a stay of proceedings, either before or at the time of filing their responsive pleading or other initial appearance (e.g., a notice of appearance).

Though not yet defined, the early evaluation conference is meant to assess whether violations occurred and were cured, evaluate the strengths and weaknesses of claims and defenses, consider settlement, and identify useful information the parties could exchange.

The employer's request must include a statement of its plan to cure any alleged violations—specifying which violations it proposes to cure and which it disputes. Absent good cause, the court must stay the case and order the following:

A conference within 70 days requiring party attendance;

Within 21 days of the order, the employer must confidentially submit to a neutral evaluator (judge, commissioner, or other designated) and serve on plaintiff a cure plan and the basis and evidence for disputing any uncured violations;

Within 21 days after service, the plaintiff must submit a confidential statement to the evaluator and serve on the employer, including the factual basis for each alleged violation; penalties claimed and the basis for calculation; attorney's fees and costs incurred to date; settlement demand, if any; and the plaintiff's position on the employer's proposed cure plan.

If the evaluator accepts the employer's cure plan, the employer must submit proof of cure within 10 days (or longer if agreed or ordered). Failure to do so may end the process and lift the stay.

If the evaluator and parties agree the violations were cured, they must file a joint statement. If no violations remain, the court should treat this as a proposed settlement. If violations remain, the court may defer.

If there is no agreement, the employer may submit evidence in a motion for court approval of the cure. The process should not exceed 30 days unless extended by agreement. All evidence and discussions remain privileged and inadmissible.

While not a guaranteed shield, the cure process offers a valuable chance to reduce liability if employers act fast and follow the rules exactly.

Practical Steps for Employers of Any Size

The best step any employer can take before receiving a PAGA notice is to ensure their wage-hour practices comply with the Labor Code. That's a tall order for employers of any size. Even those with strong HR leadership make mistakes. Some employees intentionally ignore rules like rest and meal breaks, or timekeeping software isn't set up to ensure legal compliance.

An audit of wage-hour practices by an experienced employment lawyer or outside human resources consultant can help ensure compliance and lower the risk of a PAGA notice.

Nothing is more important, upon receiving a PAGA notice, than promptly engaging California employment counsel. Without this guidance, it's extremely difficult to meet cure requirements and avoid liability. With the deadlines discussed above, there's no time to waste.

Employers should also understand the cure process only limits or removes penalties for violations. An employee may still bring an individual or class action for wage-hour violations outside of PAGA. Remedies can include unpaid wages, non-PAGA penalties, attorney's fees, costs, and interest—daunting in themselves. Still, avoiding PAGA penalties can make the effort worthwhile.

Conclusion

PAGA claims are a favored tool for plaintiffs' lawyers because they don't require class certification but let a single employee seek penalties that multiply across employees and pay periods.

The cure provision is one of the few ways employers can get ahead of litigation and cut off liability before a lawsuit. But the window is short, the standards are strict, and there's little room for error. Those who act quickly, involve counsel, and take it seriously give themselves the best chance to avoid a costly lawsuit. ■

Alex Craigie is the founder of The Craigie Law Firm, P.C., with offices in Santa Barbara, Los Angeles, and San Francisco. The firm practices exclusively California employment law. An active member of the Santa Barbara County Bar Association, Alex chairs its Employment Law Section. He provides up-to-date advice and strong advocacy before state and federal courts, the California Labor Board, the Civil Rights Department (CRD), and the EEOC. Reach him at Alex@CraigieLawFirm.com.

ENDNOTE

1. A 2021 study by The California Business and Industrial Alliance (CABIA) pegged average PAGA case cost for employers at $1,118,777. PAGA is an attorney fee-driven law. The study reported an average attorney fee portion of settlement or judgement at $372,222.

Id., *Ibid.* and All that Stuff: What You Always Wanted to Know About Citation, but Never Dared to Ask

By John Derrick

John Derrick

Most California lawyers routinely, indeed flagrantly, flout California Rules of Court, rule 1-200. That's the rule that says you must cite in court-filed documents according to either California Style Manual or Blue Book protocols.

The Style Manual— which is authored by the California Supreme Court's Reporter of Decisions— lays out the protocols used by our state courts. The Blue Book, by contrast, deals with those applicable to federal practice.

This article will focus on California Style Manual protocols, because most readers do most of their filings in state court. While you can check the Rule 1-200 box by adopting Blue Book protocols in state court, it generally makes more sense to use those of the forum you are addressing.

Does It Matter?

If a lawyer is so deficient in their citation approach that it impedes the task of a court in reviewing their authorities, that might impact outcomes. For the most part, though, improper citation is likely understandable to a legally trained reader. And I'm not aware of any lawyer who has ever been sanctioned for imperfect citation style (as opposed to a complete failure to provide accurate and comprehensible citations). So if you can get away with it, who cares?

But that sort of an approach to practice could put a lawyer on a bit of a slippery slope. Rather than asking why you should bother to get it right, a better question is *why not* do it correctly? There is literally no benefit to following your own muddled idea of how you are meant to cite rather than observing Rule 1-200. And there *can* be a real benefit in terms of the signals you send if you do it properly.

These days, I'm a full-time mediator and arbitrator. But before I focused fully on ADR, I had an appellate practice for many years. That's where I began to obsess on getting at least the basics of citation right. Appellate practice involves overwhelmingly written advocacy. And the audience in the appellate courts are sticklers for citation protocols, because they have to follow them in the opinions they issue.

By citing to cases and statutes correctly, I was able to send a signal that I, too, was a professional and that care was taken in the preparation of the brief. Hopefully, that inspired confidence in its substantive content. Trial courts might be more relaxed when it comes to citation, since their work is rarely published. But Superior Court research attorneys and many judges do know the difference.

And it's not just courts who might notice. It may also be opposing counsel. Since most lawyers don't follow the rules, chances are, admittedly, opposing counsel *won't* notice if you get it wrong. But sometimes you may be up against law firms and government agencies that require their attorneys to get it right. And the impression you give in your written work can impact the dynamics of a case.

So this article will explain the basics of citing to cases and statutes. It really isn't that complicated.

The Basics of Citing to Cases

The most simple case citation is a sentence followed by a cite to a case to which you haven't cited previously in your document. This is how it's meant to go:

- Horses do not owe a duty of care to farmers. (Jones v. Smith (2008) 65 Cal.App.4th 242, 254.)

Dissecting that citation, the number before "Cal.App." refers to the hard-copy volume number of the official reports; the "4th" (or "3d," or whatever) refers to the volume's series number; the first number following that refers to the page number in the volume at which the opinion begins; and the last number refers to the page in the volume to which the reader should go for the specific point to which you're referring. The last of these is the so-called "pin cite."

These days, obviously, few— if any— lawyers work with hard-copy volumes. In a perfect world, maybe, the system of citation would be reinvented to conform to digital realities. And there have over the years been moves to try to introduce a new cross-jurisdictional uniform system

of citation. But that is unlikely to take off any time soon, at least in California. In the meantime, understanding the structure of a citation is a useful first step toward conforming to protocols.

The citation format shown above sounds very simple. But there's plenty of scope for error. Here are some of the most common mistakes:

- Omitting the pin cite.
- Citation not in parentheses.
- Year at the end, not after the case name.
- Period at the end outside of the closing parenthesis, or nowhere.
- Spaces after periods in "Cal.App."
- Entire citation in italics.
- Some or all of it in bold type.
- Underlined type (bad style in a post-typewriter era, if not actually wrong in place of italics according to the Style Manual).
- Strange combinations of the above.

In the example above, the citation followed the sentence and was, therefore, in parentheses. But the same basic format applies if the citation is actually part of the sentence, except that then there are no parentheses:

- In *Jones v. Smith* (2008) 65 Cal.App.4th 242, 254, the court held that horses do not owe a duty of care to farmers.

What if either of those sentences are followed by another, citing to the same page in the same case and with no intervening authority separating the two cites? That's when you get to use *Ibid.*:

* Horses do not owe a duty of care to farmers. (*Jones v. Smith* (2008) 65 Cal.App.4th 242, 254.) Therefore, they cannot be liable in tort. (*Ibid.*)

In fact, that—and the equivalent with statutory and other citations—is the *only* time you use *Ibid*. Enjoy it while you can.

The next example is the same as the above, except that the second sentence, while citing to the same case as the first, cites to a *different* page within it. This is when you get to use *Id.*:

- Horses do not owe a duty of care to farmers. (*Jones v. Smith* (2008) 65 Cal.App.4th 242, 254.) Trespassers should expect no more indulgent a standard. (*Id*. at p. 256.)

Id. always has to be followed by a pin cite (i.e., page number). It can *never* be used on its own. The page number has to be preceded by "at p." (or "at pp." if citing to multiple pages). And when you have an "at p." pin cite, you *always* omit the page number at which the opinion starts— in other words, you go straight from the "Cal.App.4th" bit to the "at p." pin cite.

Conversely, *Ibid*. is *never* followed by a pin cite. In the very nature of *Ibid*., it incorporates by reference the pin cite of the previous citation.

The next example is a sentence that cites to a case already mentioned, but in a *previous* paragraph. In that instance, you can never use *Id*. or *Ibid*.— even if the citation was at the end of the previous paragraph and there was no intervening citation. Instead, you need to use *supra*:

- Farmers, by contrast, may owe a duty of care to a person's horse. (*Jones v. Smith*, *supra*, 65 Cal.App.4th at p. 256.)

With this type of cite, *supra*—which is always italicized—occupies the space previously taken up by the year (but enclosed by commas instead of the parentheses that surround the year). And you include the pin cite (as with *Id*.).

You also use that same citation format when citing back to a case first mentioned in the same paragraph, but where there was an intervening cite to something else. For example:

- Horses do not owe a duty of care to farmers. (*Jones v. Smith* (2008) 65 Cal.App.4th 242, 254.) Blah, blah, blah. (*Hernandez v. State Farm* (2009) 321 Cal. App.4th 222, 235.) And trespassers should expect no more indulgent a standard. (*Jones v. Smith*, *supra*, 65 Cal.App.4th at p. 256.)

Sometimes, it can seem cumbersome to restate the full case name in a *"supra"* citation. So in the example above, you could just say "*Jones*, *supra*, 65 Cal.App.4th at p. 256." But this is not required.

However, the Style Manual does not expressly provide for doing that in *subsequent* paragraphs. That said, generally style-compliant folk— including courts— often do use short-form case names throughout a document. But in that case, you should define the short-form use in parentheses after the initial full-length citation.

There is no rigid rule about how to define a short-form case name. In a straightforward *"Jones v. Smith"* example, it is simplest just to reduce it to *"Jones."* But sometimes, the name on the other side of the *"v."* might provide the easier short title. This is especially if the name before the *"v."* is unwieldy. With criminal cases, *"People v. Smith"* would always be shortened to *"Smith."*

Recap About Id. *and* Ibid.

To recap the rules about *Id*. and *Ibid*.:

- Use *Id*. if referring back to the previous cited authrority in the same paragraph, but with a different pin cite.
- Use *Ibid*. if referring back to the previous cited source in the same paragraph when the pin cite is identical.
- *Id*. must *always* be followed by an "at p." pin cite.
- *Ibid*. is *never* followed by its own pin cite.
- Neither *Id*. nor *Ibid*. can refer back to anything in a previous paragraph.

So that's what you need to know about citing to cases. Let's now turn to statutes.

The Basics of Citing to Statutes

If you are referring to a statute within a sentence— as opposed to citing to one *after* a sentence— then you spell everything out in full. For example:

- Code of Civil Procedure section 123 provides that liens shall be noticed in writing.

Needless to say, I am inventing the substantive law in this article; I have no idea what that code section provides or if it even exists. This is a rare instance in which form is promoted over substance.

Common errors in the above include:

- Using "CCP" to refer to the Code of Civil Procedure. (The initials "CCP" should *never* be used; while they are a common sight in pleadings and motions, they are a big give-away that the writer doesn't care about or understand citation protocols.)
- Using "Code Civ. Proc."— as shown below, that is used in short-form citations *following* a sentence, not within it.
- Using "§" instead of "section"— again, that symbol has its place, but not here.
- Writing "Section" with a capital "S."
- Italicizing any part of the citation (or using bold type).
- Strange combinations of the above.

Continued on page 17

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Nordstrand-Black, *continued from page 8*

ments negotiated by CAOC allow self-insurance, but only with strict requirements.

Mediation Amounts

AB 1141 would allow a judge to mandate mediation for cases where the amount in controversy is $150,000 or less (current law limits this for cases where the amount of controversy is less than $50,000). CAOC added limitations to the bill: The mediation must be free of cost; mediation shall conclude in the form of a mutually acceptable agreement or statement of nonagreement no later than 120 days before the trial date; counsel for each party must have full authority to settle; at least one party must opt into mediation.

RECENT CAOC LEGISLATIVE VICTORIES

CAOC also celebrates several recent victories on the legislative front and has deferred several potentially harmful bills from being enacted. For example:

- AB 1897 would create a "loser pays" attorney fee in all California cases.
- SB 1470 would limit homeowner rights in construction cases.
- SB 1296, sponsored by the insurance industry, would overturn longstanding judicial interpretation law by prohibiting the use of secondary sources in insurance cases.
- SB 1149 would immunize the state for specific bridge collapses.
- AB 2568 would eliminate safeguards that protect employees against employer surveillance. ■

Renée Nordstrand-Black is a founding partner at NordstrandBlack PC in Santa Barbara. She is AV rated by Martindale-Hubbell. She is a successful trial lawyer and certified negotiator with over 35 years of experience exclusively representing Plaintiffs throughout California in personal injury and wrongful death matters. She is the proud recipient of the Santa Barbara Women Lawyers Attorney of the Year Award and was a former President of Santa Barbara Women Lawyers.

Derrick, *continued from page 14*

The same spell-it-out-in-full rule applies if referring to a subdivision. For example:

- Code of Civil Procedure section 123, subdivision (a), provides that liens shall be noticed in writing within 10 days of blah blah blah.

Writing "section 123(a)" is never correct when referring to a subdivision. And watch those commas— you need two, one before and one after the subdivision sub-citation.

However, when you have a sentence *followed by* a parenthetical citation to a statute, then you use short-form protocols. For example:

- Liens shall be noticed in writing. (Code Civ. Proc., § 345.)

Keep in mind that citations to statutes *following* a sentence *always* have to be in parentheses. Just like with cases.

Note from the example above that with parenthetical statutory citations following a sentence, you do use "§," instead of writing out "section." Each code has its own designated short form, equivalent to "Code Civ. Proc." Some of the more common ones include:

- Bus. & Prof. Code
- Civ. Code
- Corp. Code
- Evid. Code
- Health & Saf. Code

Common errors include:

- Getting the short-form version wrong— for example, writing "Corps. Code" instead of "Corp. Code."
- Forgetting the comma after the short-form reference to the code and before the "§" sign.
- Forgetting the parentheses.
- Omitting the period at the end or placing it outside the closing parenthesis.
- Putting some or all of the citation in italics or bold print.

Finally on statutes, what if a cite following a sentence is to a subdivision? In that case, there's an extra comma and abbreviation you need to know about. Here's how it goes:

- Liens shall be noticed in writing within 10 days of blah blah blah. (Code Civ. Proc., § 123, subd. (a).)

So the two key points are that in this short-form version, "subdivision" becomes "subd." and it's preceded by a comma that follows the section number.

Pay particular attention to statutes whose section number contains a letter as well as numerical digits. A well-known (real life) example, is Code of Civil Procedure section 437c, dealing with summary judgment. In this instance, the "c" is not a subdivision, but part of the section number. That section is very well known to lawyers, but it is easy to get tripped up with lesser-known ones and to confuse a letter added to a section number with a subdivision. Of course, with correct citation protocols, the distinction will be obvious.

Phew. That's what you need to know in order to be signed off as having mastered the basics of citing to cases and statutes per the California Style Manual.

Why doesn't everyone get it?

Surely, everyone capable of understanding— if only for a fleeting moment— the rule against perpetuities, not to mention passing the California Bar Exam, is also capable of understanding this stuff? It is really not that mentally taxing. So why do so many lawyers consistently get it wrong?

One reason is that law schools typically teach according to federal Blue Book standards. When newly minted lawyers enter practice, they find that others are citing in a different way and may not recognize Style Manual protocols. And, maybe, they enter into a free-for-all mindset as a result, in which they craft their own personal hybrids out of the two standards.

Another possible reason is that leading California-centric practice guides— Witkin and Rutter— have their own proprietary citation formats, corresponding neither to Style Manual nor Blue Book protocols. As much as I am a fan of those excellent resources, I suspect their publishers don't do the profession a service by this quirkiness. It probably adds to the "any format is good enough" mindset. Incidentally, you can always tell a lawyer who simply copies and pastes from Witkin or Rutter by the resulting citation formats.

In addition, I suspect, there is the "I'm too important a lawyer to deal with this minutiae" mentality. But no one of that mindset is likely to be reading this article.

I suspect that most lawyers who get it wrong aren't consciously disregarding a rule. Rather, they can't remember what they are meant to do, they may not be aware that there is an actual "rule," and they have never got in trouble for muddling along in their own way.

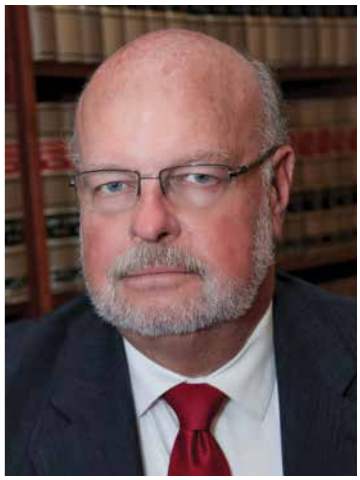
The California Style Manual runs to roughly 270 pages. There's a ton of stuff there that goes beyond the basics of citing to cases and statutes. There are whole sections dealing with all sorts of rules, regulations, legislative materials, secondary sources, other jurisdictions, and so forth. Mastering it all is unrealistic. I certainly haven't done so. (Although there's nothing to stop you from consulting the Style Manual when you're up against something unfamiliar.)

But the enormity of grasping it all is not a good reason to give up on the meat and potatoes of everyday citation— i.e., routine cites to California cases and statutes. Keep this article handy as a cheat sheet. But make sure you have access to a copy of the Style Manual as well. ■

John Derrick is a Santa Barbara-based mediator and arbitrator. He is on the panel of neutrals of Alternative Resolution Centers (ARC), one of California's longest-established ADR providers, and is on the American Arbitration Association's National Commercial Roster. He is also a Settlement Master for the Santa Barbara Superior Court and a CADRe/CMADRESS panelist. He is co-chair of the ADR Section of the Santa Barbara County Bar Association and a former Editor-in-Chief of California Litigation. Before focusing full-time on ADR, he had an appellate practice in which "Id." and "Ibid." featured prominently. www.johnderrickADR.com

Independence of Lawyers

By Robert M. Sanger



Robert M. Sanger

Introduction

By the time this *Criminal Justice* column is published, there will be much published in the popular press as well as academic journals about the Executive Orders that were issued to various law firms. As of this writing there are five firms that have caused the displeasure of the President. In addition, there will be coverage of the acquiescence by some firms and opposition by others in the form of lawsuits. Some temporary orders have been made. There undoubtedly will be other developments before this issue of the *Santa Barbara Lawyer Magazine* is distributed.

Nevertheless, without regard to partisan politics, these Executive Orders profoundly affect the legal profession—including lawyers, law firms, law professors and judges—as well as all of the public—including the people, businesses and professions—who rely on lawyers to have the courage to advocate according to the law. It is incumbent on everyone to stand up who understands the significance of the Executive Orders of President of the United States imposing penalties on law firms for their positions as advocates or for their association with individuals whom are in his disfavor.

> In particular, the targeting of law firms that have displeased the President is not only punitive but destroys the concept of advocacy in the legal profession and the rule of law.

Enemies Lists

Those of us who have been around a while remember the horror of discovering that Richard Nixon had an "Enemies List." Such a list suggested that the President of the United States could use his lawful and unlawful power to destroy the lives of individuals or businesses against whom he had a personal grudge.

One might remember Tony Randall. He was an accomplished actor in television and film. He might have been best known for his role as Felix Unger in The Odd Couple whose fastidious character was in conflict with the less fastidious character played by Jack Klugman. His extensive career involved supporting the arts, including forming a university-based theater arts group and producing stage productions and musical albums.

Randall appeared one night on a late-night talk show—maybe Johnny Carson—saying, "Do you see this button missing from my vest? [After a pause.] It is from my chest swelling with pride as I learned I was on President Nixon's Enemies List."[1] He was on the list in the company of a few other celebrities, including Steve McQueen, Gregory Peck, Barbra Streisand, Joe Namath and Paul Newman.[2] The list also included Senators, Members of the House, leaders of industry, political activists, labor leaders and members of the media. Randall's crime: supporting Eugene McCarthy in the 1968 presidential campaign and opposing the Vietnam war.

While the list was not made public initially, the mere idea of a President of the United States operating on such a petty, but dangerous, illegal, and undemocratic fashion made headlines when it was released in 1973. It was met with bipartisan revulsion and a commitment to not allow such a thing to happen again in the United States. Subsequent analysis of IRS records and other sources confirmed that the list was relatively impotent and no specific retaliation has been uncovered specifically relating to the List. Nevertheless, the White House tapes disclosed that Nixon intended to be more aggressive in his second term saying, "Things are going to change now . . .."[3] Well, things did change in the second term—the second term of a different President over 50 years later.

Perhaps the influence goes back farther into American history. The legal advisor, revered by the current President and a mentor to the family business, was Roy Cohen who, infamously, was Chief Counsel to Senator Joseph McCa-

rthy in the early 1950's. McCarthy's United States Senate Subcommittee drew public attention (in conjunction with the House Unamerican Activities Committee) by calling on people to "name names" which ultimately led to lists of enemies of the state who were (or were not) sympathizers with the Communist Party. The lists generated by the government during the McCarthy era did have significant impacts on individuals. Unlike those who proudly found themselves on the Nixon Enemies List, people who were identified as Communist sympathizers or who refused to name names were blacklisted from government and industry, notably the movie industry. This could only happen because people and institutions caved to the pressure out of fear of government retaliation. By not standing up they enabled actual harm to occur to individuals.

The Cohen approach to disregard rules and attack people is reputed to have had a significant influence on the current President.[4] However, whatever the genesis and no matter who had the influence, the creation of an Enemies List by the current President is resulting in actual and intentional harm. In particular, the targeting of law firms that have displeased the President is not only punitive but destroys the concept of advocacy in the legal profession and the rule of law.

After the Watergate investigations, the people of the United States expressed disgust at the potential misuse of the personal agendas of President Nixon. It took a while longer after the McCarthy era for the public to stand up to that sort of political manipulation by congressional committees. As a result, people and businesses were harmed irreparably. It is time to stand up now.

Perkins Coie Litigation

Several law firms have been targeted by Executive Orders of the current President. The Orders have created existential threats to their entire practice and devastation to the lawyers within. At least three, at the time of this writing, have given in—caved to the fear and pressure—and made deals. These firms—Paul, Weiss, Rifkind, Wharton & Garrison, LLP, Skaden, Arps, Slate, Meagher & Flom LLP, and Milbank LLP—eportedly have made deals with the administration. Kirkland & Ellis LLP may also have done so.[5] The obvious problem is that caving to what are arguably illegal executive orders enables the executive to continue to exercise control

over what should be the independent practice of law. This has nothing to do with who is President or with party politics.[6] It is fundamentally a question of the integrity of the adversary process and rule of law.

However, other law firms are stepping up. Perkins Coie LLP[7] filed an action to contest the validity of the Executive Order directed at them. If the current author and the members of his firm are missing buttons on their vests, it is because *Sanger, Hanley, Sanger & Avila LLP* takes pride in being one of the 504 law firms who have signed on to the *amicus curiae* brief filed by Los Angeles based firm of Munger, Tolles and Olsen, LLP in support of Perkins Coie. It is notable that some of the larger firms in the country have not signed on—but many did. In addition, it is reported that the ACLU and their polar opposite, the Cato Institute and others filed another *amicus* brief. There is also one filed by retired federal and state judges. The main thing is that people this time are standing up to be heard, now, while the threat is being carried out.

The *amicus* brief that our firm signed on to is concise and apolitical.[8] It is five pages long and is worth reading in its entirety. In summary, it says that the Executive Orders targeting law firms "pose a grave threat to our system of constitutional governance and to the rule of law itself." It asserts that zealous advocacy and the adversarial system which helps judges to arrive at informed decisions is at stake: "Whatever short-term advantage an administration may gain from exercising power in this way, the rule of law cannot long endure in the climate of fear that such actions create." The brief points out that challenging government action – whoever the president or whatever political party is involved—is a proper and necessary check on government overreach. The brief concludes:

Like every lawyer, the members of the *amicus* law firms have sworn an oath to uphold the Constitution and to discharge the obligations of the profession to the best of our ability. That oath obligates all of us, no matter our political views, to be faithful custodians of our Nation's commitment to the rule of law—a commitment that has made it possible for this Nation's corporations to lead the world in innovation and productivity; for our scientists, scholars and creative artists to contribute so much to human progress; and for all of us to know that we can turn to the courts to vindicate our fundamental civil rights. We therefore feel a special responsibility to stand up now to the unprecedented threat posed by the Executive Order at issue in this case and the others like it.

Conclusion

Our participation in this legal effort to confront unlawful Executive Orders is unlikely to be noticed or remembered. If it is, we may pay a price. However, it is critical that people in this country stand up against government abuse in violation of the fundamental principles of our Constitution. If we fail to stand up, we do not just tolerate but enable the continued violation of those principles. If violation is allowed to become the norm, the Constitution and rights and freedoms protected by it have no practical effect. ■

Robert Sanger has been practicing as a litigation attorney, now as Senior Partner in Sanger Hanley Sanger & Avila, in Santa Barbara for over 50 years and has been a Certified Criminal Law Specialist for over 40 years. Mr. Sanger is a Fellow of the American Academy of Forensic Sciences (AAFS) and has been an Adjunct Professor of Law and Forensics at the Santa Barbara College of Law. Mr. Sanger is an Associate Member of the Council of Forensic Science Educators (COFSE) and is Past President of California Attorneys for Criminal Justice (CACJ), the statewide criminal defense lawyers' organization. The opinions herein do not necessarily reflect those of the Santa Barbara Lawyer Magazine or any of the organizations with which the author is associated.

Endnotes

1 Personal recollection.

2 The Enemies Lists created in 1971 was made public in June of 1973 as a result of the Congressional Watergate Committee testimony. For the list, see, https://www.enemieslist.info/list1.php.

3 See, James Robenalt, "*The Enemies List: What Was It Like to Be on Richard Nixon's?*" Vanity Fair (November 26, 2024).

4 This has been the subject of innumerable articles and other productions. See, e.g., Michael Krause, "*The Final Lesson Donald Trump Never Learned From Roy Cohn: The unrepentant political hitman who taught a younger Trump how to flout the rules didn't get away with it forever,*" Politico (September 19, 2019).

5 Craig Anderson, "*Amicus brief exposes legal community divide over response to Trump orders,*" Daily Journal (April 4, 2025).

6 John Adams was President during the enactment of the Alien and Sedition Acts of 1798. Woodrow Wilson was President during the enactment of the Sedition Act of 1918 and the people convicted under it were pardoned by Franklin Roosevelt 1931. Of course, the Smith act was passed in 1940 while Roosevelt was President and was used to prosecute people for communist sympathiser views in the 1950's. Notably, all of these instances -- which history has largely condemned -- were passed by the legislature and signed into law by the President. None were ukases handed down without authority by the President himself.

7 *Perkins Coie LLP v. U.S. Department of Justice, et al.,* 25-cv00716 (D.DC., filed March 11, 2025).

8 The brief is found on PACER as "Case 1:25-cv-00716-BAH Document 63-1 Filed 04/04/25."

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 "Meetings" menu.

Wealth and Well-being

(Article Two, in a Two-part Series Exploring Money, Finances, and Lawyer Well-being)

By Robin Oaks

Money often costs too much. - Ralph Waldo Emerson

As discussed in the first article of this series exploring wealth and well-being, money is a human invention. Our ideas, beliefs and behaviors about making money are not necessarily based on facts, reality, or financial acumen. Look at the following list of proverbs and pick out one that reflects what you *believe* is a guiding truth about money. Whose voice do you hear saying this? Who in your life taught you about money matters? How might our *thoughts* and *feelings* influence our money management and decision-making?

- *Money talks.*
- *Time is money.*
- *You can't take it with you.*
- *A penny saved is a penny earned.*
- *Money can't buy happiness, but it can buy a lot of things that make you happy.*
- *Don't put all your eggs in one basket.*
- *The lack of money is the root of all evil.*
- *The love of money is the root of all kinds of evil.*
- *If you want to be rich, don't spend more than you earn.*
- *Money is like manure, it does no good until it is spread.*

For years, the field of economics was considered to be based entirely on rational decision-making and predictable behaviors. Then the research by Daniel Kahnemann and Amos Tversky overturned this foundational premise of economics, revealing that decision-making around finances is influenced by a range of cognitive biases ("traps") and human feelings. In their seminal paper "Prospect Theory: An Analysis of Decision under Risk" (1979), they challenged the bedrock belief of economists that rational people would predictably behave in a way that maximizes their income. Their research showed this was not true. Kahnemann was given numerous awards for his body of research: the *Nobel Prize in Economic Sciences* (2002), the *Presidential Medal of Freedom (*2013), and the Lifetime Contribution Award of the American Psychological Association (2007).

Robin Oaks

Many book titles about money management reflect how our thinking and emotions relate to financial decision-making. Examples include: *Psychology of Money, Timeless Lessons on Wealth, Greed and Happiness*, by Morgan Housel, and *Your Money and Your Brain, How the New Science of Neuroeconomics Can Help Make You Rich*, by Jason Zwei. In this article, we'll explore why mindfulness, a growth mindset, and emotional intelligence impact money management.

I invited Spencer Sherman,[1] MBA and CFP®, a financial advisor and meditation teacher, to answer some questions about how our thoughts and emotions—especially our attempts to avoid feelings of fear, uncertainty, and inadequacy—directly influence our financial decisions. Spencer is the author of *The Cure for Money Madness, Break Your Bad Money Habits, Live Without Financial Stress—and Make More Money!*. He also is the founder and former CEO of Abacus, a values-driven financial consulting firm managing over $3 billion in assets.

As lawyers, we are taught to be skeptical, believing that we always rationally analyze problems with no emotional influences. Yet, numerous studies about legal professionals reveal how external factors and internal biases influence decision-making. In one study of judges, if their alma mater suffered a loss in football,[2] this affected their rulings the next day in court. In another study, researchers discovered that parole board judges were more likely to grant parole requests at the beginning of the workday and immediately after a break, suggesting that judges' rulings were harsher when they were hungrier or mentally fatigued.[3]

We may assume that decisions, especially high-stake ones involving money, are always made rationally; however, the truth is that emotions, our unconscious beliefs, and our way of thinking influence decision-making more than we realize. Certain research suggests that lawyers' traits include 1) "urgency, fast-paced decision-making," 2) "autonomy, controlling and doing it alone," and 3) "pessimistic thinking, expecting perfection." These traits might counter our ability to make wise decisions concerning money matters—and in life. For instance, especially when uncertainty is the prevailing feeling, it's best to: 1) *slow down,* seek help from others,

and take time to analyze a financial situation, 2) *mindfully explore emotions and cognitive biases* to be less reactive and more reason-able, and 3) reframe *setbacks as opportunities for learning* - not failures or fixed conditions.

I'll now ask Spencer to provide some advice from his perspective of building proficiency, not only with "the numbers," but also through cultivating emotional intelligence and a resilient, flexible mind.

Spencer, you've mentioned during presentations your story about having a wake-up call when you found yourself reactively running into a smoke-filled and structurally unstable office building after a fire because you felt - for your clients' sake - you needed to retrieve your laptop. Panic kept you from realizing that the client files were safely backed up. What can you share about building mindful skill sets that contribute to financial and work success?

Spencer Sherman: Attorneys operate in an environment of constant pressure. Client demands, court deadlines, and the billable hour structure all create a perfect storm for stress. Despite all of this, attorneys are fortunate to bring a high level of focused attention to their work. This presents a unique opportunity to leverage that focus to be the counterpoint to the chaos.

When I do mindfulness training with attorneys, the first skill we cultivate is resilience. We begin by recognizing the changing nature of thoughts and sensations. This awareness creates space between stimulus and response, allowing for more objective, rather than reactive, responses and decisions. Viktor Frankl, an Austrian neurologist, psychologist, and Holocaust survivor said it perfectly: *"Between stimulus and response, there is a space. In that space is our power to choose our response. In our response lies our growth and our freedom."* If every attorney learns just this, I believe they will feel more content—and successful.

Lawyers who embody this tend to make smarter spending and work decisions. For example, instead of following the legal profession's push for higher yearly income, thinking about earnings over your entire career can actually lead to greater financial success (and less burnout!). One of the most profound shifts happens when attorneys learn to see that their thoughts about work and money ("I need more to be secure," "I'm falling behind my peers") are just thoughts, not absolute truths. This insight alone can transform the amount of joy they experience at work.

The billable hour model presents a unique challenge—it explicitly commodifies time in six-minute increments. This structure can create a damaging equation in the mind: Working More Hours = More Money = Higher Net Worth = Higher Self Worth. *FALSE EQUATION!*

To create healthier boundaries, I encourage attorneys to:

1. Recognize the difference between price and value. Your hourly rate is what the market will bear for your services, but your inherent worth as a human being is far greater
2. Practice being more present in daily life. Begin by noticing when you're mentally "billing" your personal time or judging activities solely by their productivity. This awareness itself creates space for more intentional choices.
3. Focus on inputs - the daily or weekly actions that you've thoughtfully chosen as the ingredients for success. When you do this, positive outcomes will naturally follow.
4. Audit your time consciously. Many lawyers I work with review their billable hours not just for client billing, but as a mindfulness practice: "Is how I spent my day aligned with what matters most to me?"

As a financial advisor, what are your recommendations regarding financial planning at each stage of an attorney's professional development?

Spencer Sherman: The following are some distinctive financial planning challenges:

Associates: Focus on debt management (especially student loans) and establishing savings habits despite lifestyle inflation pressures. I recommend calculating your *Enough* monthly savings amount, doing automated savings, and then using a debit card to spend your remaining monthly cashflow.

Partnership track: As early as possible, begin interviewing partners to learn about how to best prepare for the capital contributions and the tax implications of partnership.

Transitions: Many lawyers leave traditional practice for in-house roles, government positions, or entrepreneurial ventures. While thinking about such a transition, do a financial projection that can tell you if your fears of a potentially lower income are valid.

For all stages, I emphasize building an all-weather financial foundation. Rather than reacting in fear to economic uncertainty, a workplace transition, or market fluctuations, consider:

1. Ensuring your portfolio aligns with your current circumstances and time horizon.
2. Making adjustments based on an objective financial plan, rather than news headlines.
3. Having a general sense of four numbers: Your after-tax income, your spending, your total investment assets, and your total liabilities.
4. Meeting with an objective professional, so you make an informed decision. (FYI: I have my own financial

advisor, so I receive additional perspectives and to make sure I don't react to my own emotional impulses.)

Can you give an example of a client you worked with who discovered how their thinking and beliefs impacted financial decision-making?

Spencer Sherman: I call this mindset shift a transformation from "more" to "enough." I worked with a client who exemplified the constant chase for "more." Despite substantial financial success, they remained trapped in a mindset of scarcity and inadequacy. No matter how much their wealth grew, they couldn't escape the feeling that they needed just a little bit more to finally feel completely secure.

They began by getting curious about their persistent thoughts of "I'm not enough, I don't have enough, I don't do enough." Rather than fighting these thoughts, my client learned to observe them with compassion. This counter-intuitive approach lessened the fear associated with these beliefs and softened their self-judgment. Over time, the allure of "more" became less seductive.

What truly sparked transformation was when my client focused on adopting a generous mindset. Generosity (whether it's with time, resources, or money) signals to the mind that we have enough to share. This practice gradually dissolved the scarcity mindset and opened the door to experiencing "enough" right now. As the client became freed from the trap of wanting more or things to be different, ironically, they were able to achieve more. When we're less stressed, like animals, we function much more optimally.

The "always more" mindset is endemic in law, where achievement and comparison are baked into the culture. To help attorneys determine their personal "enough," I guide them through this process:

Do the math. Multiply your investment and retirement assets by 4-5%—that's approximately what you could withdraw annually to fund your lifestyle if you want to work less or retire. Combined with other income sources, this gives you a realistic spending framework.

Work on your mindset. Through an awareness practice, increase your ability to recognize and get curious about thoughts like "I'm not enough" or "I don't have enough" without automatically believing them.

Create a values-based spending plan. Direct resources toward what truly matters to you, not what impresses others or meets external expectations.

Practice generosity. Counter-intuitively, giving creates an abundance mindset that reduces scarcity thinking. A well-known meditation teacher, Joseph Goldstein, once said to me, "*I listen to every generous impulse and act accordingly*." Money is just one of many ways to be generous—your time, skills, and attention all count. The Buddhist principle of non-attachment applies here too. Whenever we are generous, we loosen our grip on something, whether it's a fixed idea, a material possession, or the tendency to say "yes" to every new project. The more we soften our grasp, the more we enrich and widen our experience of life.

I know that you've been conducting professional development retreats ("Mindful Advisor" and "Reset Retreats") for nearly ten years, exploring wealth strategies and mind-body practices for entrepreneurs, executive coaches, financial advisors, teachers, CPAs, therapists, attorneys, and more. Could you share some practice techniques?

Spencer Sherman: One powerful technique I use in my retreats is to have participants visualize themselves a year from now after having achieved a major goal. Then I ask

The Power of Widening Your Aperture for Expanding a Crowded or Tense Mind

BY SPENCER SHERMAN, MBA, CFP®

By widening your aperture, you can recognize that pursuing meaningful goals doesn't require tying your happiness to specific outcomes. This freedom actually enhances performance and creativity while reducing burnout. When attorneys feel overwhelmed, I teach them to literally widen their visual field. This simple practice can break the tunnel vision of scarcity thinking.

1. Go to a window with a view or go outside and widen your gaze. Look out, with as wide an aperture as possible.
2. Let your left eye gaze left and your right eye gaze right. (1 minute)
3. Let go of pursuing random trains of thought & allow your inhales & exhales to become slower. (1 minute)
4. Allow your exhales to be longer than your inhales. (2 minutes)
5. Now, immediately apply this spacious mind to your most important project.

them to work backwards by asking the question: "*How did I get there?*" This exercise reveals insights they didn't realize they already had - we often know deep-down what we need to do but that wisdom often gets crowded out by the minutiae of day-to-day workload and deadlines.

Another is called "widening your aperture," and the steps are set out for you to try in the practice box at the end of this article. The mind excels at creating new "mores" to chase—more wealth, status, recognition—but this constant grasping causes us to move through life propelled by inadequacy rather than purpose.

As John D. Rockefeller discovered, even becoming the world's first billionaire in 1916 didn't satisfy his craving for "just a little bit more." The math of enough can be calculated, but the mindset of *enough* requires cultivation—and conscious practice. For attorneys, who live in a profession defined by precedent, comparison, and measurable achievement, finding your personal enough may be the most revolutionary act of your career—and the one that leads to your definition of well-being and success. ■

Robin Oaks has been an attorney for nearly four decades, and for twenty-five years has provided legal services focused on independent workplace investigations and mediations. For over two decades she has studied and become certified in a wide range of emotional intelligence, cognitive fitness, and mind-body healing practices especially useful for legal professionals and the stressors they face. She offers MCLE presentations, PROS training programs, witness well-being support, and individualized coaching sessions empowering legal professionals to thrive in livelihood and life. Contact: Robin@RobinOaks.com or 805-685-6773.

Spencer Sherman (MBA, CFP®) integrates the power of mindfulness and emotional intelligence with business and finance. He is the founder and former CEO of Abacus, a graduate of Wharton (MBA), and author of The Cure for Money Madness. He teaches in The Inner MBA program at New York University and Sounds True, and offers workshops at meditation centers nationwide. He has been a corporate speaker at Skadden Arps, Meta, Charles Schwab, Sompo, Dimensional Funds, and the Financial Planning Association. He leads Mindful Advisor and Reset Retreats annually. Contact: https://www.spencer-sherman.com/

ENDNOTES

1 https://www.Spencer-Sherman.com

2 *Eren, Ozkan, and Naci Mocan. 2018. "Emotional Judges and Unlucky Juveniles." American Economic Journal: Applied Economics 10 (3): 171–205.DOI: 10.1257/app.20160390*

3 tudy found at https://www.pnas.org/doi/full/10.1073/pnas.1018033108

Mitchell, *continued from page 7*

Justice Project and the California Rural Legal Assistance. The clinic's mission is to de-stigmatize the reality of having a criminal background and assist individuals in expunging their records. She wrote, "I love Santa Barbara because it helped lay the foundation blocks to make me the person that I am today. I left Santa Barbara to meet other people from different walks of life, but my heart was still drawn to Santa Barbara, and I came back. Santa Barbara is a fantastic place, but our county has areas that still need help. I fully intend to practice law in a non-profit in Santa Barbara County for years to come and give back to a community that has given me so much."

There are many expenses beyond just registration that come with taking the LSAT or Bar exam, which are not covered by traditional financial aid packages. Prep courses and materials, travel to and lodging near the exam location, and taking time off paid employment to prepare and sit for the exam can add up to thousands of dollars. The DEI Task Force seeks to help lessen these burdens by awarding scholarships to students and recent graduates.

We would like to thank our sponsors without whom the scholarships would not be possible: Apex Family Law, Law Offices of Janean Acevedo Daniels - Attorney Mediator, Foley Bezek Behle & Curtis, Lynn and Steve Fox, Jennifer G. Duffy, and Susan and James Petrovich.

If you would like to contribute to the Scholarship Fund, you may do so by sending a check to the Santa Barbara County Bar Foundation at P.O. Box 21523, Santa Barbara, CA 93121. Please write on the check memo line "DEI Scholarship." To get involved with the SBCBA's Diversity, Equity, and Inclusion Task Force, please contact Teresa Martinez, Chair, at teresamaemartinez@gmail.com. ■

Claire K. Mitchell is a civil litigator and counsel with Rimon, P.C. She is a member of the SBCBA's DEI Task Force and a Board Member of the Santa Barbara Legal Aid Foundation.

Santa Barbara Lawyer seeks to objectively report **Verdicts & Decisions** from cases involving firms and lawyers based in Santa Barbara County or involving issues of local significance. For more information, please contact:

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Email: ratc@cox.net
Victoria Lindenauer (Verdicts & Decisions Editor),
Email: lindenauer_mediations@cox.net

Verdicts & Decisions

Hohne Family v. Delia Juul-Dam, Brian Richardson

L.A. COUNTY SUPERIOR COURT – VAN NUYS EAST COURTHOUSE

CASE NUMBER:	20STCV40881
TYPE OF CASE:	Personal Injury – Lead/Mold Habitability
TYPE OF PROCEEDING:	Jury Trial
JUDGE:	Hon. James E. Blancarte, Dept. "C"
LENGTH OF TRIAL:	17 days including 3 days of voir dire and 2 days of deliberations
LENGTH OF DELIBERATIONS:	2 Days
DATE OF VERDICT OR DECISION:	March 3, 2025
PLAINTIFF:	Victor Hohne, Starlie Hohne, Chloe Hohne and Sophia Hohne
PLAINTIFFS' COUNSEL:	John B. Richards, Mishelle Sotelo, Law Office of John B. Richards
DEFENDANT:	Delia Juul-Dam, Brian Richardson
DEFENDANT'S COUNSEL:	Thomas Sands, The Sands Law Group APLC
INSURANCE CARRIER, IF ANY:	None
PLAINTIFFS EXPERTS:	Rhyan Burrows, J.D., CPM (property management); Erik Lande, Ph.D. (neuropsychologist); Jason Levy, CIEC, CMC (indoor air quality/environmental inspections); Tim Maskew (lead inspections); Mark Schniepp, Ph.D. (economist); Robin Bernhoft, M.D. (Ret.); Lysander Jim, M.D.; James Dahlgren, M.D.
DEFENSE EXPERTS:	Barbara Luna (finance); Robert Griswold, CPM (property management); Nachman Brautbar, M.D.;

FACTS AND CONTENTIONS: Plaintiffs/Tenants alleged severe injuries as a result of their exposure to the high levels of lead, mycotoxins and endotoxins during their residence at the Subject Property, a single-family home, rented from Defendants/Landlords.

In 2002, Defendants bought the Subject Property, built in 1922, in "as-is" condition and without performing any professional home inspections. In August 2016, Defendants leased the Subject Property to Plaintiffs - a family of four with two children. Both parties agreed that

Plaintiffs were not provided with the EPA pamphlet "Protect Your Family From Lead In Your Home" or any lead-based paint disclosure forms as required by law. During a leak inspection, a plumber discovered what appeared to be black mold behind a bathroom wall. This prompted a professional mold inspection of the Subject Property which revealed yearslong roof leaks, plumbing leaks and a water heater leak. Subsequent mold and lead inspections reported high levels of lead, mycotoxins and endotoxins. Plaintiffs developed numerous conditions/symptoms including brain damage, chronic fatigue, memory loss, CIRS, gastrointestinal disorders, neurological conditions and liver damage. Plaintiffs contended Defendants failed to take reasonable steps to ensure the property was safe and habitable for the family's tenancy. Defendants contended they took reasonable steps to ensure the property was safe and habitable to live in.

SUMMARY OF CLAIMED DAMAGES AND MEDICAL TREATMENT: Plaintiffs' medical experts explained how/why the Plaintiffs' long-term exposure to the combined, synergistic effects of lead, mycotoxins and endotoxins caused Plaintiffs to suffer from brain damage, chronic fatigue, memory loss, CIRS, gastrointestinal disorders, neurological conditions and liver damage. Additionally, all medical experts agreed that the age of the youngest family member (10-years-old) at the time of move-in, who was also homeschooled, made her particularly susceptible to the Subject Property's uninhabit-

able conditions. These diagnoses were supported by brain imaging studies, extensive neuropsychological testing and genetic predisposition studies.

Plaintiffs' expert Mr. Levy explained how the Defendants' failure to properly maintain their property caused water intrusion via roof leaks, plumbing leaks and a water heater leak, all of which cause bacteria and mold to grow, which in turn caused bacterial endotoxins and moldgenerated mycotoxins to contaminate the home.

Defendants denied liability and asked for a defense vedict.

SUMMARY OF SETTLEMENT DISCUSSIONS: In February 2024, Plaintiffs served a CCP 998 Offer to Compromise for $4m. Throughout the case, Defendants refused to offer more than $500K.

RESULT: The jury, by a vote of 12-0 found the defendant negligent and by a vote of 10-2 awarded a total verdict amount of $10,112,000 in favor of Plaintiffs. ■

SAVE THE DATE

Past Presidents' Luncheon

A call to Judges and Past Presidents of the Santa Barbara County Bar Association to save the date for the Past Presidents Luncheon on June 5th at the University Club of Santa Barbara. Invitations will go out in May. If you are interested in being a sponsor, please contact Marietta Jablonka at sblawdirector@sblaw.org or call (805) 569-5511. Also, if anyone has a new associate working for them that was admitted to the bar in 2024, please forward their names so they may be invited to the luncheon. The event is for new bar admittees and is a prime opportunity to meet and mingle with distinguished members of the bench and bar.

Santa Barbara County Bar Association
SBCBA

Motions

Scott A. Jaske

Thyne Taylor Fox Howard, LLP is pleased to announce that **Scott Alexander Jaske** has joined the firm as our newest associate. After nearly eight years with Mark T. Coffin, PC, Scott joins the team bringing his experience with construction defect to our office.

Scott's focus on construction, business, contracts, and real property are an asset to the team. He has stepped into the firm with no hesitation in handling matters from mediations to *ex parte* hearings and is a team player. Scott also serves as the Santa Barbara Barristers Past-President and is on the Santa Barbara County Bar Association Board of Directors and is co-editor of the *Santa Barbara Lawyer* magazine. You may contact Scott at sjaske@ttfhlaw.com or by phone at 805-963-9958.

* * *

Fani Windsong

The Craigie Law Firm, P.C., an employment law boutique, is pleased to announce the addition of **Fantasy ("Fani") Windsong** as an Associate in the firm's Santa Barbara office. A Santa Barbara native, Ms. Windsong received her Bachelor of Arts in Communication from San Diego State University. She attended Santa Barbara College of Law. Ms. Windsong's experience and practice focuses on all aspects of California employment law, including wage-hour issues, PAGA matters, discrimination, retaliation and harassment cases.

Nick A. Behrman

Reicker, Pfau, Pyle & McRoy, a premier full-service law firm in Santa Barbara, has promoted corporate attorney **Nicholas "Nick" A. Behrman** to partner.

An attorney at the firm since 2019, Behrman has extensive experience in mergers and acquisitions, emerging companies, debt and equity financings, real estate transactions, business ventures, and general contract and corporate matters. Since joining Reicker, Pfau, Pyle & McRoy he's played a pivotal role in numerous high-profile transactions and developed a proven track record of advising clients on complex deals.

As partner, Behrman will continue his work with corporate clients. His promotion recognizes his exceptional leadership, strategic insight, and deep commitment to delivering outstanding results.

Behrman earned his Juris Doctor degree from the UCLA School of Law in 2016 and holds a bachelor's degree in political science from Villanova University. He was admitted to the California State Bar in December 2016.

A Santa Barbara native, Behrman is actively involved in the Santa Barbara community. He currently serves on the board of the United Boys and Girls Clubs of Santa Barbara and was recently honored as the club's board trustee of the year. He is also the board chair and trustee of the Laguna Blanca School Board of Trustees. Additionally, he leads Reicker, Pfau, Pyle & McRoy's summer clerk program and has served as president of the Santa Barbara Barristers.

Behrman is a proud father of three and married to Christina Behrman, an attorney at Mullen & Henzell who was also promoted to partner this year.

* * *

Cory Baker

Price, Postel & Parma, LLP welcomes **Cory Baker** to the firm's Litigation Practice Group. Mr. Baker is experienced in commercial and business litigation, real estate, and employment and labor law, as well as other civil litigation matters handled by the firm. Prior to joining PP&P, Mr. Baker gained extensive

litigation experience, serving clients in the Santa Barbara area and throughout California. He takes a strategic and results-oriented approach, working closely with clients to develop practical solutions tailored to their legal and business objectives.

Mr. Baker earned his B.A. from the University of California, Santa Barbara (2013) and his J.D. from Pepperdine Caruso School of Law (2016).

A resident of Santa Barbara, Mr. Baker takes full advantage of his surroundings, from hiking local trails, to spending time at the beach, or playing at a park with his wife and children. When he's not outside, he channels his creativity into baking and cooking, often testing out new recipes with his family.

* * *

If you have news to report such as a new practice, a new hire or promotion, an appointment, upcoming projects/initiatives by local associations, an upcoming event, engagement, marriage, a birth in the family, etc., the Santa Barbara Lawyer *editorial board invites you to "Make a Motion!" Send one to two paragraphs for consideration by the editorial deadline to our Motions editor, Mike Pasternak at pasterna@gmail.com.* ■

IMMIGRATION ATTORNEY SOUGHT

Sanger, Hanley, Sanger & Avila, LLP seeks an immigration attorney committed to the highest standards of practice to associate with or join its firm. Inquiries can be submitted to jswanson@sangerhanley.com.

* * *

HEARING OFFICERS AND ARBITRATORS SOUGHT

The County of Santa Barbara is seeking qualified individuals to serve as either **Hearing Officers** for the County's Civil Service Commission or **Arbitrators** for the Mobilehome Rent Control Ordinance.

Hearing Officers preside over impartial appeal hearing cases filed by Civil Service County employees pertaining to recruitment and appointment process, employee compensation, probationary periods, layoff provisions, and disciplinary actions.

Arbitrators preside over hearings on verified rent increase petitions, determine rent schedules per the Mobilehome Rent Control Ordinance, and issue decisions based on a preponderance of the evidence. They must prepare a written decision outlining the issues, findings, and imposed rent schedule that becomes part of the public record.

These positions are at-will and exempt from the Civil Service provisions and are "as needed" and will work on an on-call basis. The number of hours worked will be determined by operating needs.

Compensation is set at $260/hour

Hearing Officer qualifications:

Active membership in the State Bar of California with a minimum of five years of full-time experience as an attorney in the practice of law

Arbitrators qualifications:

Active membership in the State Bar of California or Certified Public Accountant in good standing. Have no financial interest in mobilehome parks.

TO APPLY OR FOR ADDITIONAL INFORMATION:

- Email Vanessa Hernandez, Civil Service Commission Secretary, at vhernandez@countyofsb.org
- Email Clerk of the Ordinance, Real Property Department at realproperty@countyofsb.org

An application packet must include the following:

1. A cover letter and resume
2. Proof of a current active license ■

Annual Summer BBQ Soiree

The Santa Barbara County Bar Association Invites Members, Guests & Families to honor our Judges at our Annual BBQ!

Friday, June 20th at 5:00PM

Tucker's Grove Park Area 2

4800 Cathedral Oaks Road

Member $50 Non-Member $60

Public Interest/Student $30 Kids $5

Tickets may be purchased online at: https://sblaw.org/annual-summer-bbq-soiree/

Make checks payable to SBCBA, 15 W. Carrillo, Ste.106

Sponsorship Opportunities available

Contact: sblawdirector@sblaw.org

For more information on space or classified advertising rates, or to submit an ad, please contact Marietta Jablonka, SBCBA Executive Director, at (805) 569-5511 or sblawdirector@sblaw.org.

SANTA BARBARA BARRISTERS

SANTA BARBARA BARRISTERS

YOU'RE INVITED TO THE

NEW ATTORNEY SWEARING-IN CEREMONY

DATE AND TIME:

FRIDAY, MAY 16

4:00 P.M.

MEET AT HISTORICAL SANTA BARBARA COURTHOUSE UNDER THE ARCH

Registration is required for participation in the ceremony,
all eligible participants please contact:
email: BarristersSantaBarbara@gmail.com

2025 AWARDS

Santa Barbara County Bar Association

SBCBA

The Santa Barbara County Bar Association calls for nominations for 2025 awards for recognition of outstanding attorneys, law firms, and judges in our community.

Richard Abbe Humanitarian Award

This special award, which is not given every year, honors a judge or attorney who evinces exceptional qualifications reflecting the highest humanitarian principles as exemplified by the late Justice Richard Abbe.

John T. Rickard Judicial Service Award

This award honors one of our judges for excellence on the bench and outstanding contributions to the judiciary and/or the local court system.

Pro Bono Award

This award recognizes an individual attorney who has donated at least 50 hours of direct legal services to low income persons during the previous calendar year.

Jamie Forrest Raney Mentorship Award

This award honors an attorney or judicial officer who has made a significant difference in the careers of other legal professionals through ongoing mentorship regarding professional growth, principals of professionalism, ethics, and law practice management, as did the late Jamie Forrest Raney.

Frank Crandall Community Service Award

This award honors a local law firm's best efforts in providing pro bono services to community non-profit organizations. Factors considered in bestowing the award include:

- Existence of a firm policy encouraging pro bono services;
- Percentage of firm attorneys performing pro bono work;
- Nature and quality of pro bono work and hours per attorney;
- Leadership of community projects; and
- Services benefiting low income persons.

Please submit your nominations to Cassandra Glanville at cassandra@apexfamilylaw.com by July 31, 2025. Include specific facts to support the award's criteria for each nomination.

SBCBA SECTION CHAIRS

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frankochoa@destinationadr.com
John Derrick (805) 284-1660
jd@johnderrickADR.com

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tfoley@foleybezek.com

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Lisa Petak (805) 420-6007
lpetak@fennemorelaw.com

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Doug Ridley (805) 208-1866
doug@ridleydefense.com

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Teresa Martinez (805) 568-2950
tmartinez@co.santa-barbara.ca.us

Employment Law
Alex Craigie (805) 845-1752
alex@craigielawfirm.com

Estate Planning/Probate
Lori Lewis (805) 966-1501 x267
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Family Law
Renee Fairbanks (805) 845-1604
renee@reneemfairbanks.com
Marisa Beuoy (805) 965-5131
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jglicker@rppmh.com

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robin@robinoaks.com

If you are interested in serving as a SBCBA Section Chair, please contact Marietta Jablonka, SBCBA Executive Director at (805) 569-5511 or sblawdirector@sblaw.org

May

2025

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5 Cinco de Mayo	6	7 SBCBA Monthly Happy Hour at The Harbor Restaurant	8	9	10
11 Mother's Day	12	13	14	15	16	17
18	19	20	21	22 Harvey Milk Day	23	24
25	26 Memorial Day	27	28	29	30	31

The Santa Barbara Bar Association is a State Bar of California MCLE approved provider. Please visit www.sblaw.org to view SBCBA event details. Pricing discounted for current SBCBA members.

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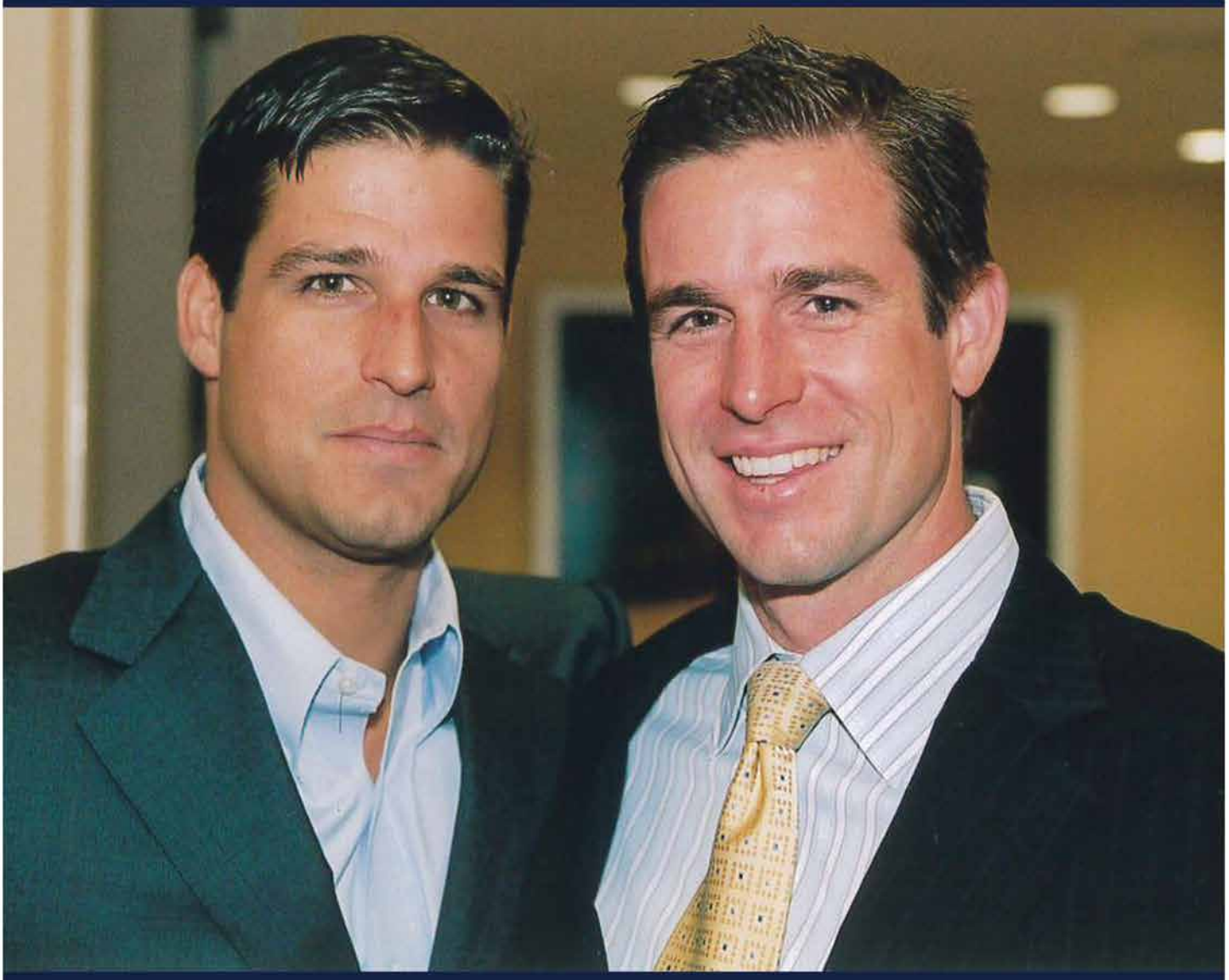

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