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Q&A with Gregory E. Stone

Founding partner Gregory Stone is an accomplished attorney with an interesting history. In this Q&A article, you will get to know more about Greg, including details about his first trial, his favorite fictional attorney, and his favorite law school course.

What made you decide to go to law school?

My original plan after undergrad was to either get my Real Estate license and/or start some type of publication. While in college, I sold advertising for a local magazine and also sold display advertising for the school newspaper, Arizona Daily Wildcat. Later I became the Business Manager of the college paper. I was proud to be inducted into the Arizona Daily Wildcat Hall of Fame for having broken sales records. I then ran for and became student body Vice President of the University of Arizona. During this time law school was not on my radar. Then, in my last year, I took a business law course. The first case assignment I was given by my professor involved a lawsuit over a customer breaking his tooth while biting into his martini olive. I was fascinated with the class debate. Was the bar liable? Should the patron expect a pit to be in a martini olive? I submitted my detailed written analysis. Later my professor told me my analysis was of law school caliber and that I should seriously consider going to law school. I would have never pursued a legal career had he not said that to me.

What was your favorite course in law school and why?

Without a doubt my favorite course in law school was trial advocacy, a hands-on course that taught jury trial performance skills. The professor was a sitting Los Angeles County Superior Court Judge (Judge Munoz), who I have since had several cases in front of. It was a competitive class and very realistic. Our final exam was a mock jury trial in an actual courthouse with an actual sitting judge. It was an extraordinary experience that gave me confidence.

After trying over 65 jury trials, take us through your very first trial.

The very first jury trial I ever tried, I won. It was awesome. I defended a police department and five individual police officers in a civil rights/excessive force case. I was a first year attorney working for a prominent downtown Los Angeles law firm. It was ill advised to assign a Superior Court jury trial to a first year lawyer, not to mention one with that amount of exposure. The only reason the trial was assigned to me was because none of the other trial lawyers from the firm were available and the judge absolutely would not continue the case. The prior non-binding arbitration handled by a different lawyer resulted in a $75,000 judgment against my clients and also an award of attorney's fees. At that point, my bosses expected me to lose and merely perform damage control. I, however, felt it was a blessing to be assigned the case and loved the challenge. I much preferred being in the position of being likely to lose than expected to win. The case lasted a few weeks and after about two hours of deliberations, the jury returned with a complete defense verdict.

What superstitions do you have while in trial?

I carry a pocket-sized U.S. Constitution book in my briefcase. It is a book that I received when I was sworn in and it acts as not only a good-luck charm but a reminder of my commitment to the profession. Tattered and worn, it remains a staple in my brief case.

How have you changed since law school?

Other than having the experience of running a law firm and being more seasoned, I really don't feel that I have changed that much from the time I was in law school. I made some great friends in law school who are still some of my closest friends today.

Who is your favorite fictional attorney (movie, TV, book) and why?

There are many fictional characters in the legal field that I admire. It is too difficult to narrow it down to just one, but I would say Gregory Peck's portrayal of Atticus Finch in *To Kill a Mockingbird*, Joe Pesci in "My Cousin Vinny," and Paul Newman in "The Verdict" are up there as my favorites.

What do you like most about SCD's new office space?

The thing I like the best about SCD's new office space is the fact that our offices were a complete build-to-suit. We had the opportunity as a team to design the offices for our specific needs. For the most part it was a vanilla shell. I'm proud of what we created. I love our 15 foot high ceilings and being on the mezzanine level which gives us a feeling of constantly being in the action.

Disneyland Is Not the Happiest Place on Earth For Segway Users

By Leslie A. Blozan, Esq.

The California Court of Appeal recently decided that Disneyland is not legally required to allow a disabled guest to use a Segway (a two wheel, gyroscopic device often used by law enforcement and tourists) on park grounds. In *Baughman v. Walt Disney World Co.*, decided in July 2013, park guest Tina Baughman sued Disneyland for discrimination under the federal Americans with Disabilities Act ("ADA"), California's Disabled Persons Act and the Unruh Act. The suit challenged Disney's policy barring the use of all two wheel vehicles within public areas of their parks, even to the disabled. The policy was based upon the dangers inherent with Segway use.

Baughman suffered from muscular dystrophy, which limited her ability to walk long distances. She learned of the Disney policy when she called the park, asking if she could use the Segway. Baughman never visited the park and was never denied admission. Instead, she sued, claiming discrimination under federal and state law.

Disney defended its position, arguing the Segway ban was a safety issue. The devices were unstable and unsafe, creating a risk of injury in a crowded environment. All of the theme parks provide access to the disabled who use wheelchairs and mobility scooters. Segways, usually not associated with disabled access devices, were not allowed under any circumstances.

The ADA prohibits discrimination against the disabled, and requires reasonable accommodations be made to provide access to services and facilities for the disabled. The California Disabled Persons Act incorporates the ADA. The California Unruh Act prohibits discrimination in access to all business establishments. The Court ruled that Disney made reasonable accommodations for the disabled, and banned the Segway for a legitimate safety reason.

The California court's ruling was filed a day after another ruling in a separate lawsuit brought by Baughman in Florida against Disney World where a federal judge held Baughman was not entitled to $124,000 in fees even though a U.S. Court of Appeals ruled in Baughman's favor on a technical issue. The judge did not consider the higher court's ruling sufficient to justify an award of fees. Although Baughman can appeal the California ruling, the restriction against Segways at Disney parks remains in force.

Traffic Court: One of Life's Avoidable Experiences

By Suzanne R. Feffer, Esq.

It's a quiet morning. Just you and the long road ahead and not a car in sight. Well, none except for that fast-approaching car with the flashing lights in your rearview mirror. Where did he come from?

As you pull over and hunt down your proof of insurance and registration, your mind spins with questions:

- Can I talk myself out of this one? (Probably not.)
- How much will this cost? (A lot more than you think.)
- Will this affect my insurance rates? (Maybe.)

Absent some remarkable justification (i.e., a medical emergency), you will likely be issued a ticket. Demeanor matters and respect is appreciated. An honest acknowledgement of the traffic infraction may encourage the officer to reduce the speed (and perhaps the fine) or rather than a moving violation, may give you a verbal warning or a "fix it" ticket. Arrogance, defiance and an argumentative attitude may entrench the officer.

You will be asked to sign the ticket and agree to appear in court at a specific place, date and time. Failing to appear can cause penalty assessments, a bench warrant and an additional count for a failure to appear. If the matter is turned over to collections, additional fines and costs may be imposed.

You can request a trial and will probably need to post bail. If the officer fails to appear at trial, it is your lucky day and the ticket is dismissed! If you fail to appear, bail is forfeited and the conviction goes on your record.

While excuses might entertain the judge, you will need evidence and corroboration, such as testimony or statement from a witness. If the officer could not have seen the violation charged (i.e., the officer's vision was obstructed), photographs are helpful.

You also can elect to change your plea to guilty or no contest and request traffic school. In California, a driver may request an eight-hour traffic school (not available for all offenses) if the driver has not completed traffic school within the last 18 months. Successful completion of traffic school dismisses the infraction (meaning no "points" on the driving record and no conviction which may raise insurance rates). Under some circumstances, a judge may allow a longer traffic school (i.e., 12 hours) for a second ticket during that 18 month window.

If traffic school is not an option, you might approach the officer before the case is called to ask for a change in the count. If the officer is agreeable (or at the least, does not object), you can change the plea, have the original violation(s) dismissed, and the new violation imposed. While that change might not eliminate a fine, it may resolve the matter without points on your record and might prevent an insurance rate hike.

Short of the interesting experience in traffic court, challenging a ticket is time-consuming and, more often than not, may fall short of your expectations.

The *In Pro Per* Plaintiff Who Won't Take "No" for an Answer

By Amy W. Lewis, Esq.

Whether a sign of the economic downturn or just coincidence, our office has seen an increase in the number of plaintiffs representing themselves in *propia persona* ("pro per") in personal injury cases against some of our clients. *Pro pers* often prove difficult because they do not understand procedural or legal requirements, often bring unnecessary or irrelevant motions, and prosecute their cases to an extreme. Although the law states that persons appearing pro per are held to the same level of knowledge as parties represented by counsel, courts are sensitive that *pro pers* are navigating a mine field of legal requirements and allow them extraordinary leeway a lawyer would never be afforded.

In two recent cases, the *pro per* plaintiffs continued to file meritless actions even after having been defeated time and again. They obtained waivers from the court to avoid filing fees and had virtually no costs or consequences from their misguided lawsuits which use valuable judicial resources and are expensive to defend. Even obtaining judgments against the pro per plaintiffs does not deter these wannabe legal eagles since they are often judgment proof. Fortunately, California law provides a procedure for handling the "vexatious litigant" who continues to abuse the legal system.

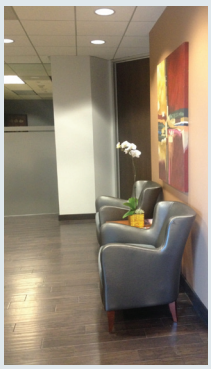
Code of Civil Procedure § 391, et. seq., is the Vexatious Litigant Statute. A vexatious litigant is defined as either (1) a person who repeatedly re-litigates the validity of a ruling or same cause of action or (2) a person who has commenced, *in pro per*, at least five lawsuits, which were determined against him/her, in the past seven years.

In our recent cases, after being deemed vexatious, the *pro per* plaintiffs had to post a $25,000 and $20,000 bond, respectively. Neither posted the required bond and their cases were dismissed with prejudice. Both *pro per* plaintiffs, true to form, filed appeals of their "vexatious litigant" status. Once their appellate options have run their course, these plaintiffs will likely not see the inside of another courtroom.

SCD's New Office: Before & After

These are a few photos of the reception area in our new office suite. We are proud of how the space has come together!



Scales Tip in Favor of Obese Employees

By Robyn M. McKibbin, Esq.

The American Medical Association ("AMA") declared obesity is a disease requiring a range of medical interventions for treatment and prevention. Anyone with a body mass index ("BMI") of 30 or over is considered obese. A BMI of 35 to 45 constitutes severe obesity. BMI is a number calculated from a person's weight and height. Roughly 30% of Americans (over 100 million people) are considered obese.

Supporters hope the AMA's decision will pressure health insurers to ramp up coverage for treating obesity itself, rather than covering only the illnesses it causes, such as hypertension, diabetes, joint pain, and heart disease. Opponents fear that labeling it a disease will only give an excuse for people to not take personal responsibility for their physical condition.

While the AMA has no authority over how health care providers or insurers treat obesity, the decision triggers potential protection under the federal Americans with Disabilities Act ("ADA") and California's Fair Employment and Housing Act ("FEHA"). Under these statutes, a physical or mental impairment that affects a major life activity or body function, like walking or sitting, constitutes a disability for which employers must provide a reasonable accommodation. What constitutes a reasonable accommodation for an obese employee could include the purchase of a larger desk chair or even a motorized scooter, or modified work schedules to allow the employee additional time to travel. Not hiring overweight applicants could expose a company to a discrimination lawsuit. "Fat jokes" could provide the basis for a harassment action.

Before the AMA decision, the Equal Employment Opportunity Commission ("EEOC") sued several employers on behalf of "morbidly obese" employees (someone who weighs twice the normal body weight). One fired employee weighed 680 pounds but was alleged to have been qualified to perform the essential functions of his job, and been denied a reasonable accommodation. The employer settled and agreed to pay the employee $55,000 and provide six months of outplacement services.

The EEOC reached a $125,000 settlement with another employer after the termination of an morbidly obese employee. That plaintiff was 5'2" and weighed over 400 pounds. She died before the case was filed.

Even if the EEOC does not expand its definition of disability, overweight employees may still be protected under the ADA and FEHA. Employers are strongly encouraged to review their employment policies and practices to ensure that supervisors and managers are trained on discrimination and harassment to avoid potential exposure.

Latest Legalities

By Kristi W. Dean, Esq.

For your entertainment, here is a savory sampling of interesting and topical litigation across the country.

"Catch Me If You Can"

California woman Wanda Podgurski was on the run from authorities after being charged with insurance fraud in January, and while alluding police she posted mocking tweets including, "catch me if you can." Her tweets led the authorities straight to her. She was apprehended in Mexico while staying on a resort during the 4th of July holiday. Podgurski was originally sentenced to 20 years in prison for the charges, but may face additional consequences for her disappearing act and her taunting tweets to law enforcement. *[Source: CBSnews.com July 9, 2013]*

Celebrity Kids vs. Paparazzi

Actresses Halle Berry and Jennifer Garner are fighting for protection for celebrity's kids against the media. According to the stars, the paparazzi's aggressive approach has caused problems for celebrities and their children. If the legislation were to pass, it would redefine harassment and restrict the publishing of photographs of minors. Those that violated the law would face fines and could be subjected to civil lawsuits. *[Source: SB 606, California Legislature, passed Senate, currently in Assembly committee]*

Shark Fin Soup... Banned

As of July 1st, the sale of Shark Fin soup became officially banned in the state of California. Possessing illegally obtained shark fins is also now against the law. The law was enacted due to the serious issues that the reduction of the population of sharks caused. California residents that profit from the sale of Shark Fin soup are fighting back against the new legislation, claiming that it is discriminatory against Chinese Americans and have filed suit to challenge the law. That case is pending. *[Source: Fish and Game §§ 2021, 2021.5; Chinatown Neighborhood Association v. Brown, 2013 WL 60919.]*

Sexual Harassment Redefined

On August 13, 2013, Governor Brown signed a law which amends the definition of harassment in the Fair Employment and Housing Act. The new bill adds the language to Government Code section 12940(j)(4)(C) that "sexually harassing conduct need not be motivated by sexual desire." According to the legislature, the law was necessary because of a 2011 ruling in *Kelley v. Conco*. Statements made by the heterosexual male supervisor that literally expressed interest and solicited sexual activity from a male employee was not sufficient to prove sexual intent because there was no credible evidence that the alleged harasser was homosexual. The legislature concluded the amendment was necessary because attorneys representing employers were using the *Kelley* opinion to argue a plaintiff needed to show sexual desire of the accused to prevail on any sexual harassment claim. *[Source: Gov. C. § 12940(j)(4)(C), chaptered by SoS on 8/12/13]*

Spousal Rights in Cases of "Good Faith" Marriage

The California Supreme Court reinstated the wrongful death claim of Nancy Ceja, a San Jose woman who filed a wrongful death lawsuit against her deceased husband's contractor employer, after he was killed in a construction accident. Nancy and the deceased had a large wedding ceremony in 2003, she changed her name, wore a ring and lived as though married. The employer's attorneys argued the marriage was void because the deceased's divorce to his previous wife was not yet final when the couple was married. The question before the court was whether spousal rights apply to a woman who in good faith believed she was married, but technically was not. The California Supreme Court held that if there is proof of a "good faith" belief in a marriage's legality, a marriage can be valid even if it turns out all of the paperwork was not in order. The construction company will return to court to challenge that Ceja did not have a "good faith belief" because she allegedly had evidence the divorce may not have been final when she secured a marriage license. *[Source: Ceja v. Rudolph and Sletten, Case S193493, Santa Clara Co. Sup. Ct. CV112520 & CV115283, Filed June 20, 2013]*

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NEWS & ANNOUNCEMENTS

➔ Congratulations to Stone Cha & Dean's Managing Partner, Kristi Dean, for being a 2013 Trusted Advisor honoree by the San Fernando Valley Business Journal. This event honors the important work of accountants, bankers, attorneys, insurance professionals and wealth managers in the greater San Fernando Valley region. 136 nominees were vetted based on certain criteria, and were then adjudged on testimonials from clients and business associates regarding their qualifications, the impact they made and how the nominee affected their client's businesses.

➔ Leslie Blozan and Kristi Dean successfully settled a multi-plaintiff habitability case at mediation.

➔ Greg Stone was a speaker at the 2013 CAALA (Consumer Attorneys Association of Los Angeles) Las Vegas Convention. This is the nation's largest trial attorney convention and features several days of educational speaking sessions.

➔ Kristi Dean instructed an insurance seminar on "Documentation and the Successful Defense of E&O Claims," hosted by the IBA (Insurance Brokers and Agents) of the San Fernando Valley.

➔ Leslie Blozan obtained a summary judgment against a cross-complaining co-defendant in an insurance bad faith case.

➔ Congratulations to John Cha and Robyn McKibbin for settling a pre-litigation employment dispute concerning allegations of pregnancy discrimination on behalf of a publicly traded client. The matter was resolved for a fraction of the demand.

➔ Leslie Blozan obtained a dismissal in a construction defect case, without payment of any settlement funds, in a case that would otherwise have involved more than one week of hearings.

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