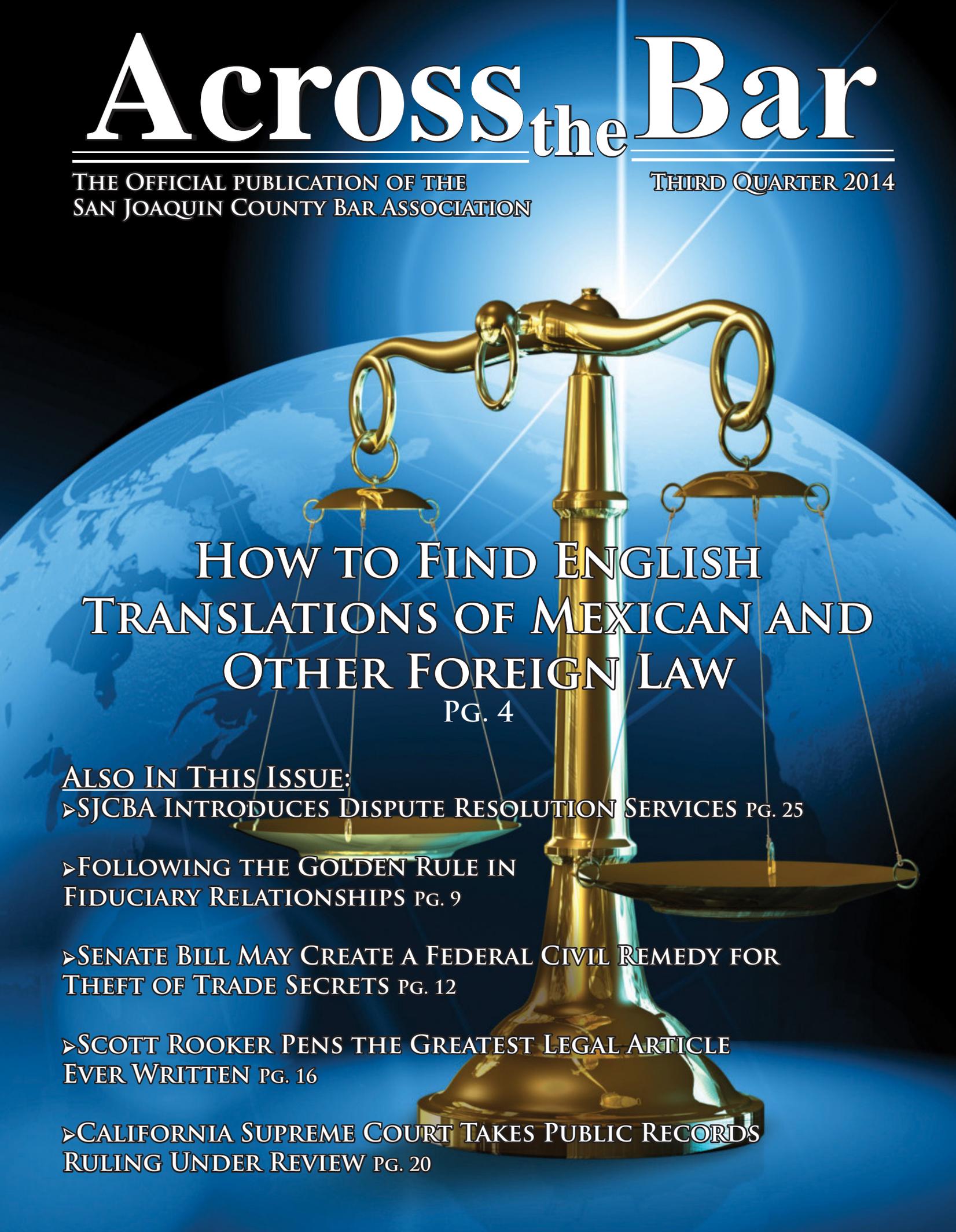


Across_{the}Bar

THE OFFICIAL PUBLICATION OF THE
SAN JOAQUIN COUNTY BAR ASSOCIATION

THIRD QUARTER 2014



HOW TO FIND ENGLISH TRANSLATIONS OF MEXICAN AND OTHER FOREIGN LAW

PG. 4

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The opinions expressed in this publication are those of the authors only and do not necessarily reflect those of the San Joaquin County Bar Association. The information contained in this publication is not intended as legal advice and may not be relied upon as such.



EDITOR'S NOTES

MICHAEL R. TENER

Another full issue! Again this quarter, *Across the Bar* is available to San Joaquin County Bar Association members both electronically and in hard copy format. Members can access *Across the Bar* in three ways: (1) via e-mail and *InBrief*; (2) on the San Joaquin County Bar Association's website, www.sjcbar.org; and (3) in their mailboxes. To access back issues of *Across the Bar*, log-in at www.sjcbar.org, then hover over the "Attorney Resources" tab at the top of the Web page and click "Across the Bar."

This quarter's feature article provides useful tips on finding translations of foreign law, particularly Mexican law. University of the Pacific librarian John Schroeder highlights resources available to practitioners with legal issues across the border or overseas, from services available for free on the Internet to databases only accessible at the library or by subscription. John's article begins on page 4.

Also in this issue, Kyle Hampton primes readers on fiduciary duties and explains how to comply with them on page 9.

Joseph Ferraro explains on page 12 how Senate Bill 2267, a measure intended to provide federal civil remedies for misappropriation of trade secrets, may provide stronger remedies and more favorable procedures for plaintiffs alleging theft of trade secrets than California law. Joe provides a detailed comparison of current state law and the Senate bill, which has attracted bipartisan support.

The foregoing pieces are merely prelude, however, to Scott Rooker's article on page 16, which is the finest example of legal literature ever published on the topic of a certain rhetorical flourish commonly found in legal briefing.

While nothing can compare with the majesty of Scott's exalted prose, Ricardo Aranda gives it a solid try with his article on page 20 concerning the California Supreme Court's grant of review to *City of San Jose v. Superior Court*, the controversial appellate decision that held that public officials' texts and e-mails on public matters sent from private accounts using private devices are not subject to

disclosure under the California Public Records Act.

In this issue's *Under Oath*, Grey Galluzzi interviews the incomparable Kerry Krueger and gets her take on family, happiness, adversity, and... reincarnation? Learn what makes Kerry tick on page 22.

Scott Rooker's article on page 16 is the finest example of legal literature ever published.

Rounding out this issue, San Joaquin County Bar Association President, Mike Mulvihill, Jr. describes the Board of Governors' latest project—developing a county-wide Membership Committee—on page 17, while Paula Turocy announces the San Joaquin County Bar Foundation's new Dispute Resolution Services program on page 25. Paula details the program's in-court mediation and small claims advising services and provides information on free training for mediators.

Finally, find nomination forms for the 2015-2017 term of the San Joaquin County Bar Association's Board of Governors inside.

The Across the Bar Committee is always interested in new members and contributors. If you would like to write for *Across the Bar*, please contact Michael Tener at atb@sjcbar.org.



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LOCATING MEXICAN LAW IN ENGLISH TRANSLATION

JOHN SCHROEDER



Introduction

The purpose of this article is to offer some guidance on locating English translations of Mexican law. American lawyers are often surprised to discover that a foreign statute or case has not been published in English. While you can never be certain that a translation does not exist – a translation may have been written, but not published or widely distributed – by making use of some of the resources discussed in this article you may be able to determine whether a translation is readily available in any of the standard sources.

In general, the availability of English translations of foreign law varies by jurisdiction and type of law. National laws are more likely to be translated than state and local laws. Constitutions and statutes are more likely to be translated than case law and regulations. Trade, tax, commercial and business laws (i.e., laws dealing with money) are more likely to be available in translation than laws on other subjects.

Although Mexico shares a common border with the U.S. and there is a vibrant exchange of goods and people between the two countries, translations of Mexican laws are not any easier to locate than translations of German or Chinese laws.

Even if you are able to find a translation, it may be inaccurate, unofficial, outdated, or written for a British or Canadian reader. It is therefore necessary to exercise care when working with translations. A text translated into English may appear more accessible to those who cannot read the original

language, but its meaning may still remain elusive. Each legal system has its own history, cultural context, language and idioms. Transferring legal concepts from one language to another is difficult and inexact. Those who use translations should be aware of the limitations.

Although Mexico shares a common border with the U.S. and there is a vibrant exchange of goods and people between the two countries, translations of Mexican laws are not any easier to locate than translations of German or Chinese laws.

Research Guides and Bibliographies

How you begin to search for a translation depends on the resources that are available to you. In this article I will include information on free Internet resources, subscription databases, and law libraries. If you are not sure where to begin, start with a research guide or a bibliography. A research guide is a resource that provides information and instructions concerning strategies, techniques, and resources for conducting research on a topic. A bibliography is a systematic list of written works by a specific author or on a given subject. Many research guides are available for free on the Internet, while bibliographies are usually found in print format in libraries. Some research guides and bibliographies on foreign law contain a section on translations.

Two Internet sites that offer lengthy lists of research guides on foreign law are hosted by two New York law schools. *GlobaLex*¹, published by the Hauser Global Law School Program at New York University School of Law, is a website that contains links to research guides on foreign, comparative, and international law. These guides have been written specifically for *GlobaLex*. The guides to foreign law provide information on the legal systems and sources of law for selected countries. An *Electronic Guide to Mexican Law*² is available through *GlobaLex*. It provides an overview of the Mexican legal system

and links to Mexican laws in Spanish and English.

A *Selective List of Guides to Foreign Legal Research*³, available on the website of Columbia University's Arthur W. Diamond Law Library, is a collection of links to research guides from over 100 countries. While *GlobaLex* usually lists one guide per country, the Columbia site often provides links to several guides for each country, including links to the *GlobaLex* guides. A few of Columbia's Mexican guides are a bit dated and should be used with care.

If the *GlobaLex* and Columbia sites have not provided you with the information you need, you have other options. These two sites contain only a few of the legal research guides available for Mexico. A Google search for "Mexico legal research guide" returns a large number of guides, usually written by law librarians and available on law library websites. While not all of the resources mentioned in these guides will be available to you for free on the Internet, you may come across a useful publication that you can borrow from a law library or purchase for your own library.

Bibliographies are usually not available for free on the Internet. A trip to a library or a bookstore, or a paid subscription, will be required to access the two bibliographies discussed here. *Foreign Law Guide*⁴, edited by Marci Hoffman of the University of California, Berkeley, School of Law is an important resource in the field of foreign law. This online publication provides information on the government, legislature, judiciary, legal history and sources of law for about 200 jurisdictions, including Mexico. Information is provided about laws in print collections and databases, whether in the vernacular or in English translation.

A useful feature of *Foreign Law Guide* is the list of sources of law by subject. This list makes it possible to find laws on a specific legal topic contained within treatises and databases. For example, a search under the heading "Contracts" in the chapter on Mexico reveals that two sources of Mexican contract law in English are the book *Doing Business in Mexico* and the database *RIA Checkpoint*.

A bibliography that will be of interest to those looking for older legal materials is *Szladits' Bibliography on Foreign and Comparative Law*⁵ by Charles Szladits. This multi-volume print publication lists English language books,

articles, working papers, and dissertations on foreign law published between 1790 and 1998. English translations of court reports and statutory compilations are also included. Mexican legal materials are well represented in this bibliography.

Library Catalogs

If you have access to a law library, you can use the library's online catalog to locate translations of laws. Translations can be found by performing a keyword search in the catalog for the name of the law and country, for example "civil code Mexico." Because of the way library materials are cataloged, such a search might retrieve not only English translations of the Mexican Civil Code, but also the original Spanish as well as any publications about the Mexican Civil Code.

Difficulties may arise when a publication contains more than the translation of just one or two codes. In such cases, due to arcane library cataloging rules, the code names may not be listed in the catalog record. It is therefore generally a good practice to begin your research, or if you have already begun to continue your research, with a research guide or a bibliography. These publications can help you locate a law in a collection of laws.

It is usually difficult to find translations of foreign judicial decisions. When performing a keyword search of a library catalog, look for the word "cases" and a geographic or subject term. If you are looking for Mexican case law, perform a keyword search for "Mexico" and "cases." A law school casebook on some aspect of international law may contain the text of a Mexican case. For example, a casebook on international environmental law may have the translated text of a Mexican case on the topic. Locating translations of case law is a slow and often frustrating process, but there are not many alternatives as case law is rarely translated.

Two books that provide an introduction to the Mexican legal system as well as references to English translations of Mexican law are *The Mexican Legal System: A Comprehensive Research Guide* by Francisco A. Avalos (3d ed. 2013) and *Mexican Law for the American Lawyer* by Jorge A. Vargas (2009). Both authors are well known in the field of Mexican law. These books should be available in an academic law library and both are currently in print and available for purchase.

Journal Articles

A journal or law review article may contain the translated text of a case, statute, regulation or treaty. You can search for journal articles by using an index or by performing a full-text search in a database. Indexes are used to locate journal articles by author, title, subject or other characteristic. With an index you will usually search a descriptive record of a journal article rather than the full text. Some indexes may provide links to the full text of articles while some may provide only a citation. The major legal indexes are all available in electronic format. The advantage of index searching is that, when you conduct a search and retrieve a list of citations, you can be quite certain that the items on your list are relevant to the search terms you entered. When you are searching the full text of articles, your results list will contain articles in which your search terms may be mentioned only in passing. This is not necessarily a bad thing. If a translated law is briefly mentioned or discussed, a footnote should be provided and you only need a citation to get started on your search for the full text.

If you cannot find the translation you need anywhere, you might consider having a translation made. MexicanLaws.com is a business that sells English translations of Mexican law, offers a subscription database of translations, and will translate a document for a fee.

While journal indexes are often available as stand-alone products, a few are offered on Westlaw and Lexis. *LegalTrac* is a stand-alone journal index with coverage back to 1980. It is offered on Westlaw and Lexis under the name *Legal Resource Index*. Westlaw also offers *Legal Journals Index*, which indexes articles from legal periodicals published in the U.K. and Europe. The *Index to Legal Periodicals and Books* appears in print and as a stand-alone database, but it is not available on Westlaw or Lexis. The database coverage dates

back to 1908 or 1982 depending on whether the retrospective version is purchased.

Popular online sources of full-text law journal articles are *Westlaw*, *Lexis* and *HeinOnline*. One journal that occasionally prints translations of foreign cases, statutes, treaties and other legal documents is *International Legal Materials*, published since 1962 by the American Society of International Law. *ILM* is available in print, in *HeinOnline* and, depending on your subscription package, in *Westlaw* and *Lexis*.

Websites Containing Translations

Translations may be available from free Internet sources. Governments, non-governmental organizations, inter-governmental organizations, professional organizations, and law firms may post translations on their websites. While some countries do provide English translations of their laws on government websites Mexico, unfortunately, does not.

To search for translations of Mexican laws on the Internet, use a search engine. Look for the name or subject matter of a regulation or statute and include the name of the country. For case law, just search for the names of the parties. A Google search for “Mexico copyright law” will retrieve an English translation of the *Mexican Federal Law on Copyright* as provided on WIPO Lex, the World Intellectual Property Organization’s legal database⁶. WIPO Lex provides access to intellectual property laws and treaties of the member states of WIPO, the World Trade Organization and the United Nations.

If you know of an organization that deals with a particular legal topic or consists of a group of countries in which you are interested, you can go to the organization’s website and look for its collection of documents or its database. The Organization of American States Foreign Trade Information System⁷, called SICE, contains treaties and national legislation related to trade in the Americas. For Mexico, much of the information is in the vernacular, but there are a few English translations.

Some United Nations agencies and affiliated organizations make available free legal databases related to the agency’s or organization’s work. FAOLEX, The UN’s Food and Agricultural Organization, provides access to summaries and full-text translations of national laws and regulations

on food, agriculture and renewable natural resources on its website.⁸ But, perhaps because Spanish is an official UN language, few Mexican materials have been translated into English. The World Health Organization is a UN-affiliated organization, which provides summaries of national and international health legislation in its International Digest of Health Legislation.⁹

Translating Services

If you cannot find the translation you need anywhere, you might consider having a translation made. MexicanLaws.com¹⁰ is a business that sells English translations of Mexican law, offers a subscription database of translations, and will translate a document for a fee.

If you cannot find a translation and do not want to pay for one, you can make your own with a free online translating service. BabelFish¹¹, Google Translate¹², ProMT¹³, SDL¹⁴, and WorldLingo¹⁵ are a few of the websites that can provide you with a machine-translated text. The translations may sometimes be less than perfect, but a machine translation can provide you with a general idea of the original text and that may be all you need. It is a good idea to run your Spanish text through several of these translators as you will get a variety of translations. Some will be more comprehensible than others.

Conclusion

This has been a brief introduction to locating English translations of Mexican law. This article was adapted from a longer research guide that I wrote for the McGeorge Law School Library. If you want to view my full research guide, it is available on the McGeorge Library website.¹⁶ There you will find more information on translations in general and in depth coverage of additional countries.

¹GlobaLex, <http://www.nyulawglobal.org/globalex/index.html> (last visited July 3, 2014).

²Francisco A. Avalos and Elisa Donnadieu, *An Electronic Guide to Mexican Law*, <http://www.nyulawglobal.org/globalex/mexico1.htm> (last visited July 3, 2014).

³*A Selective List of Guides to Foreign Legal Research*, http://library.law.columbia.edu/guides/A_Selective_List_of_Guides_to_Foreign_Legal_

Research (last visited July 3, 2014).

⁴*Foreign Law Guide* (Marci Hoffman ed., Brill).

⁵*Szladits' Bibliography on Foreign and Comparative Law: Books and Articles in English* (Daniel L. Wade, S. Blair Kauffman & Tracy L. Thompson eds., 1998).

⁶WIPO Lex, <http://www.wipo.int/wipolex/en> (last visited July 7, 2014).

⁷Organization of American States Foreign Trade Information System (SICE). <http://www.sice.oas.org> (last visited July 3, 2014).

⁸FAOLEX, <http://faolex.fao.org/faolex/index.htm> (last visited July 7, 2014).

⁹World Health Organization, International Digest of Health Legislation, <http://apps.who.int/idhl-rils/frame.cfm?language=english> (last visited July 3, 2014).

¹⁰Mexicanlaws.com, <http://www.mexicanlaws.com/index.htm> (last visited July 3, 2014).

¹¹BabelFish, <http://www.babelfish.com> (last visited May 8, 2014).

¹²Google Translate, <http://translate.google.com> (last visited July 3, 2014).

¹³ProMT, <http://www.online-translator.com> (last visited July 3, 2014).

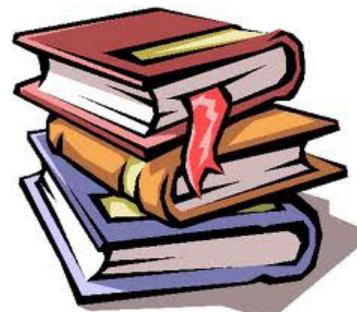
¹⁴SDL, <http://www.freetranslation.com> (last visited July 3, 2014).

¹⁵WorldLingo, <http://www.worldlingo.com> (last visited July 3, 2014).

¹⁶John Schroeder, *Guide to Foreign Law in English Translation* (2010), <http://www.mcgeorge.edu/Documents/Library/foreignLawInEng.pdf>.



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FIDUCIARY DUTIES: A STRICT APPLICATION OF THE GOLDEN RULE

KYLE A. HAMPTON



Fiduciary duties affect nearly every member of society. Traditional examples of fiduciary relationships include trustees/beneficiaries, directors, officers, majority shareholders of a corporation, business partners, joint adventurers, real estate brokers, agents/principals, and spouses.¹ Fiduciary duties are imposed on nearly every member of a business, from the officers and directors (or partners) to the lowest managers and employees.

The broad array of fiduciary relationships stems, in part, from the broad definition:

A fiduciary relationship is any relation existing between parties to a transaction wherein one of the parties is in duty bound to act with the utmost good faith for the benefit of the other party. Such a relation ordinarily arises where a confidence is reposed by one person in the integrity of another, and in such a relation the party in whom the confidence is reposed, if he voluntarily accepts or assumes to accept the confidence, can take no advantage from his acts relating to the interest of the other party without the latter's knowledge or consent.²

Courts have often waxed poetic about the duty owed by a fiduciary: "Many forms of conduct permissible in a workaday world for those acting at arm's length, are forbidden to those bound by fiduciary ties. A trustee is held to something stricter than the morals of the market place. Not honesty alone, but the punctilio of an honor the most sensitive, is then the standard of behavior."³

While the particulars of the duty owed are

context-specific, the general notion is that the fiduciary may not take advantage of the person (or entity) to whom the duty is owed. For example, in partnerships, "every partner is bound to act in the highest good faith to his copartner and may not obtain any advantage over him in the partnership affairs by the slightest misrepresentation, concealment, threat or adverse pressure of any kind."⁴

While we, as attorneys, are (or should be) familiar with the nature of fiduciary duties, our clients are not always aware of the legal duties imposed on them as they form or manage a business, take on new employment, sit on the board of a charitable or non-profit organization, or act as trustee of a family trust. This ignorance of fiduciary duties can lead to one of the most common types of business litigation: breach of fiduciary duty. Not only can an individual be directly liable for breach of fiduciary duty, a recent case reaffirms that "a defendant can be liable for aiding and abetting a breach of fiduciary duty in the absence of an independent duty owed to the plaintiff."⁵

Not only can an individual be directly liable for breach of fiduciary duty, a recent case reaffirms that "a defendant can be liable for aiding and abetting a breach of fiduciary duty in the absence of an independent duty owed to the plaintiff."

The usual defense in business litigation to a claim for breach of fiduciary duty is to assert the "business judgment rule." The business judgment rule is a judicial policy whereby "a court will not substitute its judgment for that of the board if the latter's decision can be attributed to any rational business purpose."⁶ However, that deference has limits: "Courts have properly decided to give directors a wide latitude in the management of the affairs of a corporation provided always that judgment, and that means an

honest, unbiased judgment, is reasonably exercised by them.”⁷

In advising others regarding fiduciary duties (or in fulfilling them ourselves as attorneys), three general principles can be gleaned from the case law. First, a fiduciary must always deal honestly with the person to whom the duty is owed. Indeed, “[n]ot honesty alone, but the punctilio of an honor the most sensitive...”⁸ Second, a fiduciary must act in an unbiased manner. This often means setting aside opportunities to profit individually from the fiduciary relationship. It is continually surprising how many employers have their company make payments for their personal items, or how many employees simply take money or inventory from their employers. Finally, a fiduciary must exercise reasonable diligence in performing the duties. In the context of corporate directors, “it is presupposed that judgment—reasonable diligence—has in fact been exercised. A director cannot close his eyes to what is going on about him in the conduct of the business of the corporation and have it said that he is exercising business judgment.”⁹

These principles are codified for attorneys in the Rules of Professional Conduct, most notably in Rule 3-300. Rule 3-300 prohibits any business transaction with a client or knowingly acquiring an interest adverse to a client, unless each of the following requirements is met:

1. Objectively fair terms to the client;
2. Prior disclosure to the client in writing of the transaction, in a manner that the client can understand;
3. Notice to the client that he or she can seek independent legal advice and a reasonable opportunity to do so; and
4. The client’s written consent.

Fiduciary duties are essentially a strict application of the “Golden Rule:” in fiduciary relationships, the law expects the fiduciary to treat the one to whom the duty is owed as the fiduciary would wish to be treated. It is an attorney’s obligation to adhere to this standard and to advise his or her clients of the obligations owed by fiduciaries. As we do so, we will save our clients, and ourselves, unnecessary risk and cost.

¹*Wolf v. Superior Court* (2003) 107 Cal.App.4th 25, 30.

²*Id.* at 29.

³*Meinhard v. Salmon* (1928) 249 N.Y. 458, 464.

⁴*Enea v. Superior Court* (2005) 132 Cal.App.4th 1559, 1564.

⁵*American Master Lease LLC v. Idanta Partners, Ltd.* (2014) 225 Cal.App.4th 1451, 1476.

⁶*Berg & Berg Enters., LLC v. Boyle* (2009) 178 Cal. App.4th 1020, 1045.

⁷*Gaillard v. Natomas Co.* (1989) 208 Cal.App.3d 1250, 1264.

⁸*Meinhard, supra*, 249 N.Y. at 464.

⁹*Gaillard, supra*, 208 Cal.App.3d at 1264.



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STATE BAR ANNUAL MEETING



On September 12, 2014 at the State Bar Annual Meeting in San Diego, Rebekah Burr-Siegel (right) was installed as the president of Executives of California Lawyer Associations (ECLA). Here she presents the outgoing president, Marc Staenberg (left), CEO of the Beverly Hills Bar Association, with a plaque and some wine.



The San Joaquin County Bar Association

The Probate Sections Presents an MCLE:

Advising a Trustee with Diminishing Capacity



September 30, 2014

SJCBA

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Stockton

12:15 - 1:15 pm

\$25 Section Members • \$40* SJCBA Members • \$50 Non-Members

**Includes your Probate Section dues for 2014.*

The “Aging Revolution” is receiving widespread coverage in the mainstream media. A consequence of this cultural shift that affects estate planners is the nonprofessional trustee who suffers from a diminishing capacity. This issue has already reached the courts with the recent decisions of *Estate of Giralдин and Drake v. Pinkham*. Mr. Hartog will discuss the developing law, and practical, legal and ethical issues affecting the individual trustee’s professional advisors. Mr. Hartog will also discuss drafting approaches to anticipate this problem.

John A. Hartog

John A. Hartog possess particular expertise in estate planning, counseling trustees administering living trusts, and in resolving disputes among beneficiaries and fiduciaries. Mr. Hartog also serves as a mediator in trusts and estates disputes. He is a fellow of the American College of Trust and Estate Counsel and certified by the California Board of Legal Specialization as a specialist in Taxation Law and in Estate Planning, Trust and Probate Law. Mr. Hartog has been in the Super Lawyers Top 100 list by his peers for seven consecutive years. Hr. Hartog is co-author of California Trust Litigation, California Trust Practice and California Wills & Trusts, all used by professionals, and the author of numerous published articles.

This activity has been approved for Minimum Continuing Legal Education credit by the State Bar of California in the amount of one (1) participatory hour, of which one (1) hour credit will apply to the General MCLE Requirement. The SJCBA certifies that this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the State Bar of California governing minimum continuing legal education.

HOW WOULD A FEDERAL CIVIL REMEDY FOR THEFT OF TRADE SECRETS CHANGE THE LAW?

JOSEPH FERRARO



The Economic Espionage Act of 1996 (18 U.S.C., sec. 1831-1839) made the theft or misappropriation of trade secrets a federal crime and allowed the Attorney General to bring civil actions to enjoin violations, but did not create a private right of action for trade secret owners. The owners of stolen trade secrets must still look exclusively to state law for a civil remedy.

A bill introduced this spring in the U.S. Senate (S. 2267 – 113th Congress (2013-2014)) would create a private civil right of action for the owner of a trade secret aggrieved by a violation of the Economic Espionage Act or by the misappropriation of a trade secret “that is related to a product or service used in, or intended for use in, interstate or foreign commerce.”

If Senate Bill 2267 becomes law, how will that change the substantive elements of a claim for the theft or misappropriation of a trade secret in California?

Before 1985, California and other states recognized a common law claim for theft of trade secrets based on “concepts of breach of trust and confidentiality.” (*Balboa Ins. Co. v. Trans Global Equities* (1990) 218 Cal. App. 3d 1327, 1345 n. 22, 1348.) With respect to misappropriations after January 1, 1985, California applies the Uniform Trade Secrets Act (“UTSA”), codified in Civil Code sections 3426-3426.10.

The UTSA also relies on the concepts of confidentiality and breach of trust, but spells them out in more explicit detail. Thus, a claim under the

UTSA requires proof of two essential elements:

(1) A trade secret, defined as “information . . . that . . . [d]erives independent economic value, actual or potential, from not being generally known,” and “[i]s the subject of efforts that are reasonable under the circumstances to maintain its secrecy” (Civil Code, sec. 3426.1 (d)); and

(2) Misappropriation, which includes, *inter alia*, unauthorized acquisition or use of a trade secret acquired by “improper means,” or in violation of a “duty to maintain its secrecy or limit its use” (Civil Code, sec. 3426.1 (b)).

“Improper means” is defined to include “theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means. Reverse engineering or independent derivation alone shall not be considered improper means.” (Civ. Code, § 3426.1 (a).)

The UTSA authorizes the court to issue injunctions and to award damages, which may consist of “the actual loss caused by misappropriation,” “unjust enrichment,” or “a reasonable royalty.” In cases of “willful and malicious misappropriation,” or in the case of bad faith claims, the statute allows the court to award exemplary damages of double the amount of actual damages and to award reasonable attorney’s fees and costs to the prevailing party. (Civ. Code, §§ 3426.2, 3426.3, 3426.4.)

Senate Bill 2267 (captioned the “Defend Trade Secrets Act of 2014”) contains some elements and definitions that are virtually identical to those used in the UTSA, but it differs from the UTSA in significant ways, particularly with respect to remedies. Of course, like the trade secret theft provisions of the Economic Espionage Act (18 U.S.C., sec. 1832(a)), the bill applies only to a trade secret “that is related to a product or service used in, or intended for use in, interstate or foreign commerce.”

But while the gravamen of a trade secret claim under the UTSA is “misappropriation,” the bill would create a private right of action in *two* situations: (1) where the plaintiff is injured by the “misappropriation” of a trade secret, and (2) where

If the Seante Bill 2267 is enacted, it will provide trade secret owners with a choice of forums, a longer statute of limitations, higher exemplary damages, and the ability to obtain an *ex parte* seizure order.

the plaintiff is harmed by “a violation of section 1831(a) or 1832(a).”

With respect to “misappropriation” claims, the bill appears to be substantively consistent with state law. It allows the owner of a trade secret to bring a civil action if the owner is aggrieved by a “misappropriation of a trade secret.” (S. 2267, § 2(a).)

The bill defines “misappropriation” and “improper means” in terms that are virtually identical to those used in the UTSA. (Compare S. 2267, sec. 2(b) to Civil Code, sec. 3426.1.) Thus, those sections do not appear intended to work any substantive change in the law. With respect to the third key definition, that of a “trade secret,” the bill incorporates the definition of “trade secret” already contained in 18 U.S.C., section 1839. While that definition is consistent with Civil Code section 3426.1(d) in emphasizing the essential qualities of economic value derived from secrecy and reasonable efforts to maintain secrecy, the definition in Section 1839 is more specific (and more wordy) than that in the UTSA in its description of the forms of “information” that are included in the term “trade secret.” Notwithstanding this difference in drafting style, the definitions appear to be substantively indistinguishable.

The bill differs from state law in several procedural aspects, however. First, Civil Code section 3426.6 provides for a three year statute of limitations; Senate Bill 2267 would allow five years. Second, Civil Code section 3426.3 allows exemplary damages of double the actual damages; Senate Bill 2267 would allow treble damages.

More significantly, while Civil Code section 3426.2 permits a court to grant injunctive relief, Senate Bill 2267 would authorize the court to grant injunctive relief as well as a “civil *ex parte* order for preservation of evidence and seizure,” modeled explicitly on the kind of order frequently used in cases of trademark infringement to seize counterfeit goods. Such an order would allow a federal or state law enforcement officer to serve the order and to seize “any property used, in any manner or part, to

commit a violation” of section 1831(a) or 1832(a) (i.e., economic espionage or theft of trade secrets).

As noted above, however, Senate Bill 2267 would allow a private right of action not only in the case of “misappropriation” as defined in the statute, but also in the case of “a violation of section 1831(a) or 1832(a),” thus creating a civil right of action for injuries caused by the criminal offense of economic espionage or theft of trade secrets (as defined in those sections). By defining the civil claim in the comprehensive and explicit terms of a criminal statute, Senate Bill 2267 appears designed to expand the scope of a trade secret owner’s substantive rights, and it may change the law with respect to copyright law preemption of trade secret claims.

Whether “theft of trade secrets” as defined in Section 1832(a) is a broader tort than “misappropriation,” or simply more explicitly described, will turn on the interpretation of Section 1832(a), which provides:

(a) Whoever, with intent to convert a trade secret, that is related to or included in a product that is produced for or placed in interstate or foreign commerce, to the economic benefit of anyone other than the owner thereof, and intending or knowing that the offense will, injure any owner of that trade secret, knowingly

(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains such information;

(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys such information;

(3) receives, buys, or possesses such information, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

(4) attempts to commit any offense described in paragraphs (1) through (3); or

(5) conspires with one or more other persons to commit any offense described in paragraphs (1) through (3), and one or more of such persons do

any act to effect the object of the conspiracy, shall, except as provided in subsection (b), be fined under this title or imprisoned not more than 10 years, or both.

In addition to creating a potentially broader claim, Section 1832(a)(2), which appears to prohibit mere copying or duplication of a trade secret, may also change the law with respect to copyright preemption of trade secret claims. Under present law, a trade secret claim that is based on the mere copying or duplication of the trade secret is preempted by the copyright statute, 17 U.S.C., sec. 301. Thus, it is well-settled that a state-law trade secret claim requires an “extra element” beyond mere reproduction and distribution in order to survive. (See, e.g., *Summit Mach. Tool Mfg. v. Victor CNC Systems* (9th Cir. 1993) 7 F. 3d 1434.) Such an extra element might, for example, be a breach of fiduciary duty, breach of a confidential relationship, or palming off. (*Id.* at 1441.)

But Sections 1831(a)(2) and 1832(a)(2) do not appear to require any “extra element,” and while 17 U.S.C., sec. 301(a) clearly preempts any rights equivalent to copyright that arise “under the common law or statutes of any State,” Section 301(d) provides that “[n]othing in this title annuls or limits any rights or remedies under any other Federal statute.”

Many trade secrets are not copyrighted or even eligible for copyright protection, but many others are clearly “works of authorship that are fixed in a tangible medium of expression,” as that term is used in Section 301. The boundary between “theft of trade secrets” and copyright infringement will need to be defined by the courts.

Although Senate Bill 2267 has bipartisan support, there is obviously no assurance that it will become law in its current form. If it is enacted, though, it will provide trade secret owners with a choice of forums, a longer statute of limitations, potentially greater exemplary damages, and a powerful procedural weapon in the form of an *ex parte* seizure order. And, depending on how it is interpreted, it may expand the trade secret owner’s substantive rights as well.



JOSEPH FERRARO is a lawyer and mediator. He can be reached at jferraro@ferraromediation.com.

SCJBA MEMBERSHIP NEWS



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HYPERBOLE: THE GREATEST LEGAL WRITING TECHNIQUE IN THE HISTORY OF THE UNIVERSE

SCOTT ROOKER



Hyperbole is the greatest literary invention of all time. Hyperbole is defined, if such a mind-blowing concept can be defined by mere words, as deliberate exaggeration used for effect.¹ It comes from the Greek “hyper” (to exceed or go beyond) and “bole” (to throw). Clearly, if our goal as attorneys is to make effective arguments, what could be better than making arguments that are over-effective? The answer is nothing. There is nothing within the contemplation of human thought or history that could possibly be better.

Aristotle, the beginning and end of all modern thinking on the entire planet, said, “hyperboles ... betray vehemence. And so they are used, above all, by men in angry passion.”² Truer words were never spoken by the tongues of men or angels. Attorneys are nothing if not zealous advocates; foaming, slaving bulldogs, crouched and waiting to eviscerate and devour our opponents. “Angry passion,” then, is more important to us than the air in our lungs or the blood in our veins. Without it, we would shrivel and die.

Lawyers are trained from the womb to persuade and convince others of the obvious, absolute, undeniable justice of our client’s position. Clearly, our very way of life is dependent on a lawyer’s persuasive powers. Obviously, hyperbole is the most persuasive and convincing writing technique imaginable, bar none. Judges or mediators who have the unmitigated privilege of reading our pumped-up pleadings, bulging with exaggeration and overstatement, literally shed tears of joy at the

magnificence of our legal reasoning.

Incredibly, there are some who think legal writing should be measured and understated—that we should help the trier of fact come to his or her own conclusions by well-crafted, rational arguments that are grounded in objective facts. Those people are woefully, unbelievably naïve. Those who are against hyperbole are most likely also against the use of *ad hominem* attacks (by the way, anyone who criticizes *ad hominem* attacks is drooling moron whose law school diploma is probably a forgery).

Clearly, if our goal as attorneys is to make effective arguments, what could be better than making arguments that are over-effective? The answer is nothing.

Hyperbole is simply the only possible road to success in the practice of law. Anything less can only lead to misery, penury, and the collapse of human civilization. So sharpen those pencils, fire up that computer, and let future generations bask in the warm glow of your pure, inexorable legal writing genius.

This was a fun bit of satire to write, but there is a serious point behind it. Was the hyperbole in this piece persuasive, or did it undermine the writer’s credibility and make the whole thing seem like a big joke? Hopefully the latter. The question we should always be asking ourselves is which of those reactions we want our briefs to elicit.

¹Collins English Dictionary – Complete & Unabridged 10th Edition (William Collins Sons & Co. Ltd., 2009).

²The Rhetoric of Aristotle, p. 216 (Lan Cooper Translation, 1932).



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PRESIDENT'S MESSAGE

MICHAEL MULVIHILL, JR.



As we enter the fall of 2014, I cannot believe how quickly this year has passed. As president, I want to thank my fellow Board of Governors (BOG) members for all of their hard work this year.

The BOG has been working diligently throughout this year on many new and existing projects. One of these projects is to develop a Membership Committee to increase, retain and better serve our membership. In this day and age, professional organizations across the country are struggling. We constantly encounter questions concerning the economy, and newer generations tend to ask, “why join? What do I get for my money?” In my experience as a member of the San Joaquin County Bar Association for many years, I have received back much more than my financial investment. I have had the ability and privilege to meet fellow attorneys in this community and get to know them in both a professional and social capacity.

Our bar association is fairly unique in size. The legal community in San Joaquin County is not so small that we all automatically know each other, nor is it so large that it would be nearly impossible to meet the majority of members. The BOG is currently working on ways to serve our membership by getting the membership together outside of our yearly meetings and MCLE events.

One of the main purposes of the new Membership Committee will be to organize events which cater to our membership. This will include more events in the greater county, not just Stockton. Over the years our legal communities in Tracy, Manteca, Lodi, Ripon, and Escalon have grown. Over the last several months I have traveled extensively throughout our county and marveled

at how big San Joaquin County actually is. Part of our goal with the Membership Committee will be to ensure that the entire county is reached.

In my experience as a member of the San Joaquin County Bar Association for many years, I have received back much more than my financial investment. I have had the ability and privilege to meet fellow attorneys in this community and get to know them in both a professional and social capacity.

The Membership Committee is in its infancy and will be up for discussion before the BOG. If you have an interest or any suggestions or ideas, please contact Rebekah Burr-Siegel, a fellow Board member, or me. In the meantime, please encourage any attorneys you know to join our bar association. The BOG will continue its hard work as we enter the fall and winter of 2014. On behalf of the BOG, I want to thank all of our membership for your support and your work with the San Joaquin County Bar Association.



MICHAEL MULVIHILL, JR. is an attorney with the Office of the District Attorney. Contact Michael at michael.mulvihill@sjcda.org.



The Superior Court
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PUBLIC NOTICE

07/17/14

NEW TELEPHONE NUMBERS FOR SUPERIOR COURT

San Joaquin Superior Court has recently changed its telephone numbers. Below is a list of public telephone numbers by department. For additional information, please visit the Court's website at www.sjcourts.org.

992-5555	Information
992-5224	ADA
992-5695	Administration & Judges
992-5694	Appeals
992-5288	Arbitration Clerk
992-5707 992-5708	Business Services
992-5693	Civil
992-5714	Civil Law & Motion
992-5679	Civil Records
992-5693	Civil Tentative Rulings
992-5424	Collaborative Courts
992-5364	Court Interpreters
992-5442	Court Reporters
992-5691	Criminal
992-5283	Facilitator Facilitator-Pro Per Clinic
992-5690	Family Law
992-5630	Family Law Tentative Rulings
992-5689	Family Support
992-5699	Human Resources
992-5695	Judicial Secretaries
992-5500	Jury Assembly Room
992-5698	Juvenile (Delinquency)
992-5706	Juvenile (Dependency)
992-5555	Passports
992-5696	Probate
992-5218	Public Information Officer/Media
992-5697	Records Management
992-5701	Small Claims
992-5692	Traffic
992-5702	Unlawful Detainer/Landlord-Tenant

**The area code for all telephone numbers listed is (209)*

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All dates, programs and speakers are subject to change. The final schedule will be printed in the Year in Review issue of *Across the Bar* in November 2014. If you have any questions, please contact the SJCBA at (209) 948-0125.

CALIFORNIA SUPREME COURT TO DECIDE SCOPE OF PUBLIC RECORDS ACT

RICARDO Z. ARANDA



The California Supreme Court is set to weigh in on whether the scope of the California Public Records Act (CPRA) extends to require disclosure of emails, text messages, and other communications that are stored on public employees' private electronic devices using private accounts. This issue stems from the Sixth District Court of Appeals' March 27, 2014, opinion in *City of San Jose v. Superior Court* (2014) 225 Cal.App.4th 75, that such communications do not fall under the CPRA.¹

Background

In June 2009, Ted Smith sought a number of records from the City of San Jose pursuant to the CPRA. Mr. Smith's request included "any and all voicemails, emails or text messages sent or received on private electronic devices used by [the Mayor, the City Council, or their staff] regarding any matter concerning the City of San Jose, [including matters related to certain downtown redevelopment]." (*Id.* at 80. In response to the CPRA request, the City of San Jose produced the individuals' responsive records sent or received on private devices using City accounts, but did not disclose records that used private accounts (for example an email message sent from the employees' Gmail account on their private smartphone).

Definition of "Public Records"

The CPRA defines "public records" to include any writing relating to the conduct of the public's business that is "prepared, owned, used, or retained by any state or local agency..." (Gov. Code Section 6252(e).) In the ensuing litigation by Mr. Smith to obtain the communications sent or received through private devices and private accounts, the City argued that such records were not "public records" within the meaning of the CPRA because Government Code section 6352(e) applies to only the agency and not individuals. In other words, since the records are only on private devices and accounts, they are not prepared, owned, used, or retained by the public agency. Smith argued that the CPRA must extend to records that are only in the control of individual employees since a public agency is an entity that can only act through individuals.

Both sides also made policy arguments in favor of their positions, with the City (and the League of California Cities as *amicus curiae*) arguing that extending the CPRA to records from private accounts on private devices would invade individual privacy rights and be burdensome to the agency. Smith (and various "media representatives" as *amicus curiae*) contended that CPRA must be construed broadly to further the right to public access, and that exempting the disputed communications would allow public officials to withhold information.

Ultimately, the Sixth District Court of Appeals stated that the policy arguments were not controlling and that the narrow issue of whether information that is stored on a public official's private account or device that is not accessible through an agency device or account constitutes a public record is determined

The CPRA defines "public records" to include any writing relating to the conduct of the public's business that is "prepared, owned, used, or retained by any state or local agency..."

by the language of the CPRA, specifically Section 6252. The Court held that that Section 6252's reference to the agencies as a whole (counties, cities, boards, commissions, etc.) does not incorporate individual officials or employees of these agencies. If the legislature had intended to encompass individuals within the scope of "public records" it could easily have do so. Thus, the communications sent or received through private accounts and private devices were not within scope of the CPRA.

Impact

The Court of Appeals noted that it was deciding a very narrow issue concerning whether the CPRA requires disclosure of documents based on their location. The Court invited the legislature to weigh in and address the policy concerns raised by the parties. On June 25, 2014, the California Supreme Court granted review of the *City of San Jose* case, meaning the appellate court's decision is no longer citable. However, the decision still serves as an important reminder for public entities, and attorneys representing public entities, to review their policies regarding electronic communications and use of public and private devices, especially in light of other

recent legal issues. For example, Labor Code section 980, enacted last year, prohibits employers from requesting an employee's username and password to access personal "social media." The term "social media" includes email and text messages and it is unclear whether Section 980 applies to public entities. If a public entity is not prohibited from requesting employees' private usernames and passwords, does the CPRA require entities to do so? The California Supreme Court's decision will likely provide some guidance.

¹It is important to note that while the *City of San Jose* decision is described in detail in this article, the Supreme Court's decision to grant review means that it is no longer the law and the case cannot be cited as legal precedent.



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Below is an excerpt of an article that was recently published in the Central Valley Business Journal about this accomplishment. We are pleased to provide our membership with the benefits of banking with peace of mind.

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UNDER OATH: KERRY KRUEGER

GREY GALLUZZI



Kerry and I met after court one day at a coffee shop downtown (and to clarify, we were not appearing on the same matter). Like many of the subjects of my previous interviews, she seems to know everyone that passed by or entered the shop. After we sat down to our caffeinated beverages, the questions began...

Q. "What is your idea of perfect happiness?"

A. "Oh that's a tough question!" She thought about it and sipped her coffee. "Perfect happiness... well, I'm living it. Great family, great friends, and a great career. I have my health and my kids are healthy too."

I asked about her family. She has two daughters, one is thirty years old and the other is a little over eighteen months (and no, that is not a typo!). I commended her bravery for facing the challenge of child-rearing twice. She laughed and later explained her journey through motherhood for the second time.

Q. "What is your greatest fear?"

A. "Another good one! I didn't expect these questions to be so tough... I really try not to let fears control me. But I guess I worry about my health, I don't want to ever be a burden on anyone."

Q. "What is the trait you most deplore in yourself?"

A. "I don't deplore anything. If I think there is a problem, I work on it."

To play the devil's advocate, I inquired as to which trait she thought needed the most work. "Depends on the day!" she joked. "Well, I don't cook I guess that's where I need the most work. And when my husband is gone and I have to cook for the baby, I feel bad, just not bad enough to start

cooking!"

Q. "What is the trait you most deplore in others?"

A. "People who act in a hateful manner or operate from improper motives."

Q. "What is your greatest extravagance?"

A. "I'm not a very extravagant person."

Determined to find an answer, she thought about it more. "Well, I like to travel."

Q. "Where was your favorite place?"

A. "I love all the places I go but, I guess, Machu Picchu. You hike for days and finally, at the end, when you come out on top, you get to see with your own eyes a place you have only seen in books your entire life. It is stunning and extremely moving."

Q. "What is your favorite journey?" I laughed. "You kind of already answered that one!"

A. "Yeah, I guess so! But can I say that I really enjoyed my educational journey. My first career was working in higher education. Even still, my most favorite journey would be the journey of adopting our daughter. We went through the foster-to-adopt program and the entire process was very eye-opening. You are forced to look at yourself so differently and reflect on your own experiences. You have to ask yourself, what gifts can I offer? I also was extremely pleased and impressed with San Joaquin County Health and Human Services. The media always casts such a negative light on these sort of agencies, but everyone we worked with was so amazing. It was a great process. That would have to be my favorite journey."

Q. "What do you consider is the most overrated virtue?"

A. "Whoever dies with the most toys wins." We spoke about the materialistic approach to life and how it is generally unfulfilling. This woman would clearly choose her relationships and experiences over "stuff" any day.

Q. "What do you dislike most about your appearance?"

A. "As a female I am subject to marketing, and therefore I am told I am suppose to dislike everything about myself! Well, I guess my nose is a bit crooked, but I don't lose sleep over it."

Q. "Which words or phrases do you most

overuse?”

A. “I probably say, ‘dude’ too often.” I feel the need to inform the reader, however, that the only time Kerry said “dude” was in answering this question, so I think she is doing better than she gives herself credit for.

Q. “What is your greatest regret?”

A. She put serious effort and thought into her answer. Ultimately, she said, “you know, I try not to have any regrets. If there is a tough time, I try to work through them.”

Q. “What or who is the greatest love of your life?”

A. “My husband, daughters, friends and family.” She also stated that she loves fitness and described a little of her running regimen.

When I asked how often she runs, she responded, “I run MOST days. I’m not an economics professor, not a number person, I am a “most” sort of person. I don’t number the days I run, I just run just when I can. How far I run depends on if I’m in training, but typically ends when I need to get my daughter.”

She admitted that she was never an athlete growing up, but obviously finds great joy in maintaining her health through physical fitness. “Also”, she confessed, “I’m kind of a nut about Thomas Jefferson and George Washington.”

Q. “When and where were you happiest?”

A. “Now. I am blessed to have been born with a good disposition. It is very rare that I don’t wake up in a good mood.”

Q. “Which talent would you most like to have?”

A. “Singing.” I asked if there was a particular genre that she would choose and she said, “Rock and roll or R&B, but pop rock and roll, not the screaming kind.”

Q. “What do you consider your greatest achievement?”

A. “Winning a Connie Callahan award in the Inn of Court.”

Q. “What was the award for?” I inquired.

A. “I can’t say. What happens in the Inn stays in the Inn.” To all you Inn members reading this, your secrets are safe with Kerry!

Q. “If you were to die and come back as a person or thing, what would you like it to be?”

A. “A dog in a family like mine. We just loved them. I like to think that they were good people in their past lives.” We spoke about our beloved pets

and how they make such wonderful additions to our families. Kerry then opted to add an alternative if she was not able to be a beloved dog in the event of reincarnation. “Tim Lincecum, I would be him.”

For those who don’t know (and yes, I was one example of such ignorance), Tim Lincecum is a pitcher for the San Francisco Giants. As Kerry very graciously educated me, “He pitched a no hitter yesterday!” So I assume he would be a good second draft pick for her next life after all.

Q. “What is your most treasured possession?”

A. “A note from my father on the night before my wedding and a card from my mother.”

I joked, “I assume the note didn’t tell you to run?”

She laughed. “No, no it did not.”

“You know, I try not to have any regrets. If there is a tough time, I try to work through them.”

Q. “What is your favorite occupation?”

A. “That’s hard. I was raised in a family that said, ‘honor labor’.” Kerry and I spoke about the values of hard work and the dignity of giving your best. “I do have respect for particular jobs. My job in education showed me that teachers certainly don’t get the respect they deserve.”

Q. “What is your most marked characteristic?”

A. “I don’t know! I guess I would have to ask everyone else!” I joked with her about polling the audience and supplying an answer in the next publication, but in the meantime, reader, feel free to let Kerry know what you think is her most marked characteristic.

Q. “What do you most value in your friends?”

A. “A positive attitude and wide latitude.” I really liked her response because a positive attitude really does make a world of a difference, plus it rhymed, which always makes things better in my book.

Q. “Who are your favorite writers?”

A. “Toni Morrison, probably.” We spoke about Morrison’s books, her unfortunate recent passing, and her contribution to the literary canon. Kerry also mentioned, “I also like David Sedaris. He writes nonfiction humor, I really enjoy his work.”

Q. "What is your favorite hero of fiction?"

A. "Well, I guess like many lawyers it would have to be, from *Kill a Mockingbird*..."

And then I broke the cardinal rule of conducting interviews and interrupted, saying, "Atticus Finch?"

"Yes!" she confirmed. I explained that he was my favorite as well (so much that my son's middle name is Atticus, to the displeasure of my husband) and she said he just was a great example for attorneys (or future attorneys) to look up to.

Q. "Who are your heroes in real life? Which living person do you most admire?"

A. "My parents. They both have very strong values related to social justice. They were also big on promoting community spirit. They both just have so many personal strengths."

Q. "How would you like to die?"

A. "Fully functioning, both cognitively and physically, peacefully in my sleep." I then asked that if she could know the date and hour of her passing at this very moment, would she want to know? "Yes. I think I would want to know. I might put a rush on certain things... I would like to do more traveling and see more. There are things that we all want to get done."

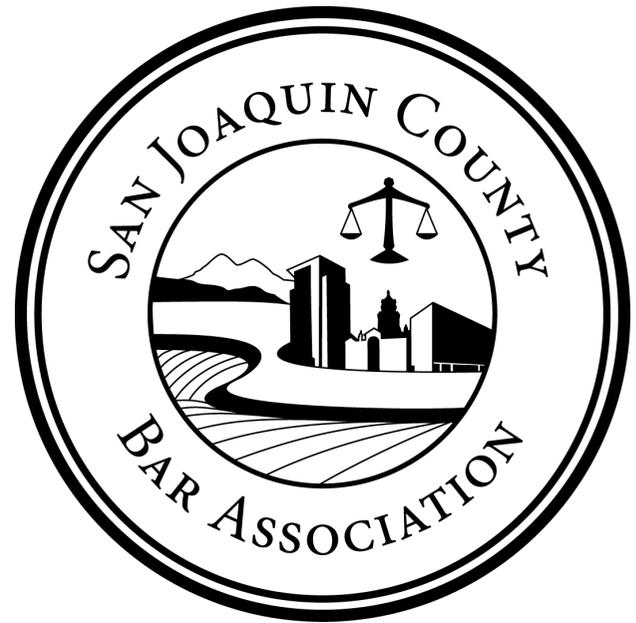
Q. "What is your motto?"

A. "Do your best. No matter what, do your best."

I thoroughly enjoyed my morning coffee break with Kerry. Since our interview, I have researched several travel agencies offering an adventurous climb to Machu Picchu and have even Googled Tim Lincecum to see what Kerry might look like in 100 years. Thank you, Kerry, for your wonderful inspirations, your willingness to share your adoption story, and for being a prime example of your motto.

"Under Oath" is a recurring feature submitted by the Women's Lawyer's Section for Across the Bar. Members of the SJCBA are interviewed and asked to give responses to a set of questions. Responses may be paraphrased or condensed.

GREY GALLUZI is an attorney at law.
Contact Grey at greygalluzi@yahoo.com.



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INTRODUCING DISPUTE RESOLUTION SERVICES OF THE SAN JOAQUIN COUNTY BAR FOUNDATION PAULA TUROCY



We are pleased to announce our newest program, Dispute Resolution Services of the San Joaquin County Bar Foundation (DRS), which began operations on June 2, 2014. DRS current services include mediation, and small claims advising services.

In-Court Mediation Services:

DRS's mediation services operate under California's Dispute Resolution Programs Act of 1986 (DRPA) and a contract with the San Joaquin Superior Court. DRS' lead mediator is present in the Stockton Courthouse for every small claims, unlawful detainer, and civil harassment court session five days a week. The mediator offers the litigants in court that day an opportunity to resolve their case through facilitative mediation prior to going before the judge. To mediate, all parties must be present and voluntarily agree to attempt settlement.

Since June 2, 2014, DRS' lead mediator and DRPA-certified volunteer mediators, successfully mediated 37 small claims cases, 25 unlawful detainers, and 5 civil harassment cases.

Mediation Training:

DRS will offer a 40-hour intensive mediation skills, training that is compliant with DRPA standards, in the Spring of 2015. If you or anyone you know (including non-attorneys) are interested in becoming a DRPA-certified volunteer mediator,

please check back at DRS's new website at <http://disputeresolution.sjcbar.org> for more information.

Anyone interested in volunteering to mediate prior to the spring training needs to: (1) establish that they have received mediation training that meets DRPA standards; and (2) schedule an orientation session with DRS's mediation program staff by calling (209) 474-8794.

Small Claims Advising Services:

Under California's Small Claims Act and a contract with the San Joaquin County Superior Court, DRS provides assistance on small claims matters to the community in three ways: (1) an informational phone line, (209) 473-6463, where callers can access a menu of answers to small claims' FAQs and also leave a voicemail message for a small claims advisor; (2) through email at smallclaims@sjcbar.org; and (3) in-person advice from attorneys, law students, or other volunteers trained in small claims matters at two small claims clinics each month, currently scheduled as follows:

- **On the first Thursday of each month from 5:30 p.m. to 7:00 p.m., at the Margaret K. Troke Library, 502 W. Benjamin Holt, Stockton; and**
- **On the third Tuesday of every month from 4:30 p.m. to 6:00 p.m. at the San Joaquin County Law Library, located on the first floor of the Kress Building at 20 N. Sutter Street, Stockton.**

Since June 2, 2014, we have provided small claims advising services on 203 cases through all three forms of communication.

If you are interested in volunteering as a small claims advisor please email us at smallclaims@sjcbar.org.

We welcome your participation!

PAULA TUROCY is an attorney and the program administrator for the Dispute Resolution Services of the SJC Bar Foundation. She can be reached at (209) 474-8794 or pturocy@sjcbar.org.



THE SAN JOAQUIN COUNTY BAR ASSOCIATION

20 N. Sutter Street, Suite 300 • Stockton • CA • 95202

**BOARD OF GOVERNORS
INDIVIDUAL NOMINATION FORM
TERM: 2015-2017**

All Nominations Due on October 6, 2014

Each nominee needs 5 nominations in order to be considered.

I, _____, am a member in good standing with the San Joaquin County Bar Association.

I wish to nominate _____ as a nominee for the upcoming Annual Election of the Board of Governors to be held on November 5, 2014.

Date: _____ Signature: _____



THE SAN JOAQUIN COUNTY BAR ASSOCIATION

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**BOARD OF GOVERNORS
GROUP NOMINATION FORM
TERM: 2015-2017**

All Nominations Due on October 6, 2014

I, _____, am a member in good standing with the San Joaquin County Bar Association.

I wish to nominate _____ as a nominee for the upcoming Annual Election of the Board of Governors to be held on November 5, 2014.

Date: _____ Signature: _____

I/We are currently members in good standing with the San Joaquin County Bar Association and approve the nomination of the candidate listed above.

Signature: _____

Signature: _____

Signature: _____

Signature: _____

**San Joaquin County
Bar Association's
74th Annual Meeting**

Save the Date

Wednesday, November 5, 2014

University Waterfront Plaza

Waterfront Hotel

110 W Fremont Street

Stockton, California

12:00 pm - 1:15 pm ~ Lunch & Program

Invitation to Follow

CALENDAR & MEMBER ANNOUNCEMENTS

OCTOBER 2014

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
		1 Criminal Law RT LPM&T Ex Comm	2 Women Lawyers Ex Comm Small Claims Clinic Troke Library 5:30 pm	3
6 Probate Ex Comm Civil Lit RT Dept. 11	7 ATB Comm	8 Family Law Ex Comm	9 Crim Law Ex Comm	10
13 Columbus Day - Courts Closed SJCBA & LRS Open BOG Ex Comm	14 MCLE Comm	15 Paralegal Ex Comm Civil Lit Ex Comm	16 BOG Barristers Mixer	17
20	21 CAC Comm Lodi Legal Clinic 4:30 pm	22 Young Lawyers Ex Comm Stockton Legal Clinic 4: 30 pm	23 Judicial Liaison	24
27 Lawyer Assistance Comm 4 pm	28 Program Comm	29	30	31

 MCLE	 Off Site Meeting	 Free Legal Clinics	 Free Small Claims Clinics	 Holiday
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UNLESS OTHERWISE INDICATED, ALL MEETINGS START AT 12 NOON AND ARE HELD AT THE SJCBA OFFICE.

SJCBA CAREER CENTER

Visit the SJCBA new Career Center today! The Career Center can be the first place that you turn to post and/or search for job opportunities in the legal field locally and beyond. Find industry specific jobs around the state of California, post your resume, create job alerts and more. Visit today!

jobs.sjcbar.org



CALENDAR & MEMBER ANNOUNCEMENTS

NOVEMBER 2014

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
3 Probate Ex Comm w/ Bench	4 LRS Comm	5 Annual Meeting University Waterfront Plaza 12 pm	6 Women Lawyers Ex Comm Small Claims Clinic Troke Library 5:30 pm	7
10	11 Veteran's Day Holiday	12 Family Law Ex Comm w/ Bench	13 Crim Law Ex Comm	14
17 BOG Ex Comm	18 CAC Comm Tracy Legal Clinic 4:30 pm	19 Paralegal Ex Comm Civil Lit Ex Comm Stockton Legal Clinic 4:30 pm	20 BOG	21
24 Lawyer Assistance Comm 4 pm	25 Program Comm	26 Young Lawyers Ex Comm	27 Thanksgiving Holiday	28 Thanksgiving Holiday



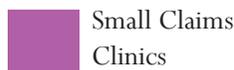
MCLE



Off Site
Meeting



Legal
Clinics



Small Claims
Clinics



Holiday

UNLESS OTHERWISE INDICATED, ALL MEETINGS START AT 12 NOON AND ARE HELD AT THE SJCBA OFFICE.

ATTORNEY JOINS LOCAL LAW FIRM

Shari Borba has joined the Stockton law firm of Herum Crabtree Suntag as an associate attorney. Ms. Borba earned a BS from California Polytechnic State University, graduating cum laude and her JD from UOP, McGeorge School of Law graduating with distinction. While at McGeorge, Mrs. Borba received a Witkin Award in International Protection Human Rights, was inducted into the Traynor Honors Society, and worked as a Certified Law Student at the Elder and Health Law Clinic as part of McGeorge Community Legal Services Program that provides legal services to the lower socioeconomic community in Sacramento. Mrs. Borba practices in the areas of water law, probate and estate planning, public agencies, and bankruptcy litigation.



CALENDAR & MEMBER ANNOUNCEMENTS

DECEMBER 2014

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
1 Probate Section RT	2 ATB Comm	3 Criminal Law Section RT	4 ABA Telebriefing Women Lawyers Ex Comm Crim Law Holiday Party Women Lawyers Holiday Party	5
8	9 MCLE Comm	10 Family Law Ex Comm w/ Mediators Barristers Holiday Party	11 Crim Law Ex Comm	12
15 BOG Ex Comm	16 CAC Comm	17 Paralegal Ex Comm Civil Lit Ex Comm	18 BOG	19
22 Lawyer Assistance Comm 4 pm	23 Program Comm	24 Young Lawyers Ex Comm	25 Christmas Holiday	26
29	30	31		



MCLE



Off Site
Meeting



Legal
Clinics



Small Claims
Clinics



Holiday

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