

PUBLICATION UPDATE

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California Forms of Pleading and Practice Annotated

Publication 181 Release 187

May 2011

HIGHLIGHTS

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- **Public Employees Collective Bargaining.** The California Supreme Court in *International Ass'n of Fire Fighters, Local 188 v. Public Emp't Relations Bd.* (2011) 51 Cal. 4th 259 has held that a local public entity that is faced with a decline in revenues or other financial adversity may unilaterally decide to lay off some of its employees to reduce its labor costs; however, the public entity must give its employees an opportunity to bargain over the implementation of the decision, including the number of employees to be laid off, the timing of the layoffs, as well as the effects of the layoffs on the workload and safety of the remaining employees.
- **Open Primary Law.** The election law chapters are revised to incorporate California's new "Top Two Candidates Open Primary Act," adopted by Proposition 14 in the June 8, 2010, election.
- **2011 Legislation, Rules of Court,**

Regulations, Judicial Council Forms, and Latest Cases. This release updates various chapters throughout the publication with the changes to California legislation and regulations effective January 1, 2011, as well as the January 1, 2011, changes to the Rules of Court and Judicial Council Forms. This release also updates various chapters with the latest state and federal case law opinions of 2010 and 2011.

- **Important new developments are added in other areas of law, including:**
 - Alternative Dispute Resolution
 - Appeals
 - Attorneys
 - Civil Procedure
 - Civil Rights
 - Class Actions
 - Contracts and Commercial Law
 - Corporations and Business Entities
 - Costs and Attorney's Fees
 - Discovery

- Elections
- Employment
- Family Law
- Judgments, Enforcement, and Debt Collection
- Juvenile Law
- Public Administrative Law
- Real Estate
- Schools
- Taxes
- Torts
- Unfair Competition

Periodical Identification Statement (ID Statement): CALIFORNIA FORMS OF PLEADING & PRACTICE ANNOTATED (USPS 005-571) is published five times a year (Mar., May, July, Aug., Dec.) for \$3,424.00 by Matthew Bender & Co. Inc. 1275 Broadway, Albany, N.Y. 12204-2694. Periodical postage is paid at Albany, N.Y., and at additional mailing offices. POSTMASTER: Send address changes to CALIFORNIA FORMS OF PLEADING & PRACTICE ANNOTATED, 136 Carlin Rd. Conklin, N.Y. 13748-1531.

Release 187 of California Forms of Pleading and Practice Annotated updates the publication in many areas noted in more detail below.

ALTERNATIVE DISPUTE RESOLUTION

Mediation—Confidentiality. In *Radford v. Shehorn* (2010) 187 Cal. App. 4th 852, the court held the inadmissibility rule of Evid. Code § 1119 applies to a mediator's statement as to how many pages a stipulation made by the parties during mediation contains. In contrast, under those provisions, a party's or counsel's testimony concerning his or her individual noncommunicative acts may be used in that regard,

and testimony by counsel of writing page numbers on pages of agreement and party concerning how many copies she signed was admissible. See Ch. 31, *Mediation*, § 32.14[2][a].

Arbitration Agreements—Lifting of Stay. A new subsection is added on the lifting of a stay of arbitration, including *MKJA, Inc. v. 123 Fit Franchising, LLC* (2011) 191 Cal. App. 4th 643, which holds a trial court may possess some amount of discretion to lift a stay imposed pursuant to Code Civ. Proc. § 1281.4, prior to the completion of an ordered arbitration. Given the purpose of the statute, the most reasonable interpretation of the stay provision would be that it grants a trial court discretion to lift a stay prior to the completion of arbitration only under circumstances in which lifting the stay would not frustrate the arbitrator's jurisdiction. See Ch. 32, *Contractual Arbitration: Agreements and Compelling Arbitration*, § 32.31[2][e].

Confirmation of Award—Procedural Error Clearly Prejudicial to Right to Fair Hearing. A new subsection is added in light of *Hoso Foods, Inc. v. Columbus Club, Inc.* (2010) 190 Cal. App. 4th 881, which holds an arbitrator who procedurally restricts an arbitration participant in a way that precludes the participant's right to a fair hearing is also grounds for vacating the arbitration award, such as limiting representation by only the president of a corporation, which also violated applicable arbitration service provider's rules. See Ch. 34, *Contractual Arbitration: Judicial Review*, § 34.19 [4][k].

APPEALS

Limited Appeal on Judgment Roll. In *Kucker v. Kucker* (2011) 192 Cal. App. 4th 90, the court of appeal held that review on a judgment roll is limited to determining whether any error appears on the face of the

record. See Ch. 41, *Appeal: Review Standards and Appellate Rules of Law*, § 41.13[3].

Order Not Technically Filed Until Available as Public Record. In *In re Marriage of Mosley* (2010) 190 Cal. App. 4th 1096, the court of appeal held that for purposes of determining the deadline to file a notice of appeal under Cal. Rules of Ct., Rule 8.104(d)(3), an order is not technically filed until it is available as a public record. See Ch. 42, *Appeal: Notice of Appeal*, § 42.13[2][b].

Cross-Complaint Must Be Resolved In Order to File Appeal. In *Dang v. Smith* (2010) 190 Cal. App. 4th 646, the court of appeal affirmed that no appeal will lie from a judgment on a complaint without resolving the issues presented in the cross-complaint. See Ch. 42, *Appeal: Notice of Appeal*, § 42.12[1][a].

Failure to File Respondent's Brief Not Deemed Default. In *Kucker v. Kucker* (2011) 192 Cal. App. 4th 90, the court of appeal held that a respondent's failure to file an appeal brief did not constitute a default; the court of appeal would examine the record, the appellant's brief, and any oral argument to determine the appeal. See Ch. 50, *Appeal: Briefs*, § 50.17[2].

ATTORNEYS

Attorney Not Liable to Potential Beneficiary for Failing to Complete Execution of Will Before Testator's Death. In *Hall v. Kalfayan* (2010) 190 Cal. App. 4th 927, the court of appeal held that an attorney who was drafting a testamentary document for a conservatee owed no duty to the conservator who was also a potential beneficiary under the will when the document was not executed before the conservatee's death. See Ch. 76, *Attorney Professional Liability*, § 76.200[3][b][ii].

Fee Agreements—Non-Litigation Con-

tingency Fee Agreement Must Include Prescribed Language to Be Enforceable. In *Arnall v. Superior Court* (2010) 190 Cal. App. 4th 360, the court held that Bus. & Prof. Code § 6147(a)(4) applies to fee arrangements outside the litigation context and that contingency fee agreements omitting the required language are voidable. See Ch. 72, *Attorney Practice and Ethics*, § 72.196[3][a].

Attorney-Client Relationship—When Putative Class Member Becomes “Client.” In *Kullar v. Foot Locker Retail, Inc.* (2011) 191 Cal. App. 4th 1201, the court held that an attorney client relationship does not arise between an attorney and a putative class until the class is certified. See Ch. 72, *Attorney Practice and Ethics*, § 72.190[2].

CIVIL PROCEDURE

Anti-SLAPP—Attorney's Fee Award Against Plaintiff's Attorney Void. In *Moore v. Kaufman* (2010) 189 Cal. App. 4th 604, a judgment awarding a successful defendant attorney's fees against the plaintiff and the plaintiff's attorney was void as to the attorney. Nothing in the language of Code Civ. Proc. § 425.16(c)(1) suggested that, although an award against a losing plaintiff is mandatory, the court retained discretion to grant an award against the plaintiff's attorney, as well. See Ch. 376, *Motions to Strike: Anti-SLAPP*, § 376.22[1][a].

Continuance—Civil Harassment. In *Freeman v. Sullivant* (2011) 192 Cal. App. 4th 523, the court held Code Civ. Proc. § 527.6, regarding civil harassment restraining orders, does not afford a respondent in such an action to a continuance as a matter of right. See Ch. 136, *Continuance*, § 136.45[3][a].

Limitation of Actions—False Advertising and Online Marketing Services. In

Hypertouch, Inc. v. Valueclick, Inc. (2011) 192 Cal. App. 4th 805, the court held in an action alleging that the provider of online marketing services and associated entities used deceptive header information in e-mail advertisements, in violation of Bus. & Prof. Code § 17529.5, the statute of limitations is three years for claim for actual damages under Bus. & Prof. Code § 17529.5(b)(1)(B)(I), but one year for claim for liquidated damages under Bus. & Prof. Code § 17529.5(b)(1)(B)(ii), which is subject to the one-year limitations period of Code Civ. Proc. § 340. See Ch. 345, *Limitation of Actions*, § 345.207.

Vexatious Litigant—Plaintiff Was Vexatious Litigant Even Though She Hired Counsel. In *Kovacevic v. Avalon at Eagles' Crossing Homeowners Assn.* (2010) 189 Cal. App. 4th 677, the Court of Appeal held that Code Civ. Proc. § 391.7(c) does not preclude a trial court from dismissing litigation a vexatious litigant has filed in propria persona even if the vexatious litigant obtains counsel prior to defendant's filing of a notice of mistaken filing. See Ch. 573, *Vexatious Litigants*, § 573.14.

Vexatious Litigant—Representation by Counsel Does Not Preclude Finding of Vexatious Litigant; Appeals. In *Golin v. Allenby* (2010) 190 Cal. App. 4th 616, the Court of Appeal held that when a party effectively conducts himself or herself in an action as a self-represented litigant without the professional and ethical considerations that constrain counsel, the party's nominal engagement of an attorney will not insulate the party from the statutory consequences of the vexatious litigant provisions. In addition, while an order determining a party to be a vexatious litigant and requiring the posting of security under Code Civ. Proc. § 391.3 is not directly appealable, if the plaintiff subsequently fails to furnish secu-

rity, an appeal lies from the subsequent order or judgment of dismissal that follows. See Ch. 573, *Vexatious Litigants*, §§ 573.13[1], 573.15.

CIVIL RIGHTS

Tattooing Is Expressive Conduct Protected by First Amendment. In *Anderson v. City of Hermosa Beach* (9th Cir. 2010) 621 F.3d 1051, the Ninth Circuit held that tattooing is purely expressive activity fully protected by the First Amendment, and a city's total ban on tattooing was not a reasonable time, place, or manner restriction. See Ch. 59, *Assemblies, Meetings, and Demonstrations*.

Rational Basis Appropriate Level of Scrutiny for Claim of Violation of Association Rights Incidentally Affecting Marriage Right. In *Bautista v. County of Los Angeles* (2010) 190 Cal. App. 4th 869, the trial court properly applied the rational basis as level of scrutiny to a deputy sheriff's challenge to the sheriff's department's policy prohibiting department members from knowingly maintaining a personal association with persons under criminal investigation or indictment and/or who had an open and notorious reputation in community for criminal activity, when the association would be detrimental to the image of the department, unless express written permission was received from the member's unit commander. The court also properly found that the policy was rationally related to the department's legitimate purpose of preserving its integrity and credibility and minimizing conflicts of interest. See Ch. 59, *Assemblies, Meetings, and Demonstrations*.

Denial of Access to Law Library Violated Prisoner's Rights. In *Hebbe v. Pliler* (9th Cir. 2010) 627 F.3d 338, prison officials violated an inmate's constitutional right to court access by denying him access

to the prison law library while the facility was on lockdown, preventing him from filing a brief in support of his appeal of his state court conviction; the fact that he entered a guilty plea did not affect his right to appeal or affect his right to use the library. Forcing him to choose between using the prison law library and exercising outdoors stated a claim for violation of the Eighth Amendment. See Ch. 114, *Civil Rights: Prisoners' Rights*.

Court Could Order Sheriff to House Pretrial Detainees on Psychotropic Medication in Cooler Area. In *Graves v. Arpaio* (9th Cir. 2010) 623 F.3d 1043, the district court did not err in concluding that dangerously high temperatures that posed a significant risk to health of pretrial detainees taking psychotropic medications violated the Eighth Amendment, because temperatures in excess of 85 degrees F greatly increased risk of heat-related illness for those detainees. Under the Eighth Amendment's requirement of adequate nutrition, the court did not abuse its discretion in ordering that pretrial detainees be provided food meeting or exceeding the federal Department of Agriculture's *Dietary Guidelines*. Further, under the PLRA, the district court could require the state to propose remedies at a hearing at which the court is also deciding whether constitutional violations are ongoing. See Ch. 114, *Civil Rights: Prisoners' Rights*.

Putting Inmate's Wages in Account Held Until Discharge or Death Did Not Violate Prisoner's Rights. In *Ward v. Ryan* (9th Cir. 2010) 623 F.3d 807, the Ninth Circuit found that Arizona statutes established a framework under which inmates' property interest in their wages was limited and subject to mandatory deductions, and did not give inmates full and unfettered right to their property so that an inmate did not possess protected property

interest under either Takings or Due Process Clauses in the immediate access to wages held in an account to be given to the prisoner on discharge or to estate or heirs on death. See Ch. 114, *Civil Rights: Prisoners' Rights*.

Inmates Required to Exhaust Only Available Administrative Remedies. In *Sapp v. Kimbrell* (9th Cir. 2010) 623 F.3d 813, the Ninth Circuit held that the Prison Litigation Reform Act does not require exhaustion by prisoners when circumstances render administrative remedies "effectively unavailable," and that improper screening of an inmate's administrative grievances renders administrative remedies effectively unavailable. However, the facts did not show that prison officials improperly screened out the prisoner's administrative grievances. See Ch. 114, *Civil Rights: Prisoners' Rights*.

Court Should Not Dismiss Newly Added Claims as to Which Prisoner Exhausted Remedies. In *Rhodes v. Robinson* (9th Cir. 2010) 621 F.3d 1002, the Ninth Circuit held that the court should not dismiss newly added claims in an amended complaint or supplemental complaint, based on new conduct, when the new claims were properly exhausted before the prisoner tenders the amended or supplemental complaint to the district court for filing. See Ch. 114, *Civil Rights: Prisoners' Rights*.

CLASS ACTIONS

Attorney-Client Relationship—When Putative Class Member Becomes "Client." In *Kullar v. Foot Locker Retail, Inc.* (2011) 191 Cal. App. 4th 1201, the court held that an attorney client relationship does not arise between an attorney and a putative class until the class is certified. See Ch. 72, *Attorney Practice and Ethics*, § 72.190[2].

CONTRACTS AND COMMERCIAL LAW

Financial Institutions—Multiple Party Accounts Law and Ownership After Death of Party Is Determined by Terms of Account. In *Araiza v. Younkin* (2010) 188 Cal. App. 4th 1120, the court concluded that Prob. Code § 5302(e), which provides that a beneficiary designation in a Totten trust account cannot be changed by will, is to be taken literally and that, therefore, a revocable trust, on becoming irrevocable at the settlor's death, was effective to accomplish what the statute prohibits to be accomplished by a will, namely, to revoke a Totten trust beneficiary's survivorship right. See Ch. 95, *Banks, Deposits, and Checks*, § 95.270[7][a].

CORPORATIONS AND BUSINESS ENTITIES

Corporations—Derivative Actions and Shareholder of Dissolved Corporation as Plaintiff. In *Favila v. Katten Muchin Rosenman LLP* (2010) 188 Cal. App. 4th 189, the court held, in a case of first impression, that a shareholder of a dissolved corporation may maintain a derivative action, and that the continuous ownership requirement of Corp. Code § 800 is not a bar. See Ch. 168, *Corporations: Derivative Actions*, § 168.15[3].

COSTS AND ATTORNEY'S FEES

Reasonableness of Code Civ. Proc. § 998 Offer Based on Objective Test. In *Najera v. Huerta* (2011) 191 Cal. App. 4th 872, the court of appeal held that an important factor in deciding whether a Code Civ. Proc. § 998 offer is unreasonable or in bad faith is whether the offeree was given a fair opportunity to intelligently evaluate the offer. See Ch. 174, *Costs and Attorney's Fees*, § 174.17[5].

Attorney's Fees Available When Action Dismissed Based on Forum Non

Conveniens. In *PNEC Corp. v. Meyer* (2010) 190 Cal. App. 4th 66, the court of appeal held that a party who was successful in having a contract action dismissed based on forum non conveniens grounds could recover attorney's fees under Civ. Code § 1717. See Ch. 174, *Costs and Attorney's Fees*, § 174.54[7].

Appellate Court Not Required to Defer to Trial Court Regarding Whether Litigation Provided Significant Benefit.

In *Environmental Protection Information Center v. Department of Forestry and Fire Protection* (2010) 190 Cal. App. 4th 217, the court of appeal held that an appellate court is not required to remand to the trial court the question of whether to award fees under Code Civ. Proc. § 1021.5. See Ch. 174, *Costs and Attorney's Fees*, § 174.56[1].

DISCOVERY

Mediation Confidentiality. Chapter 191, *Discovery: Privileges and Other Limitations*, has been updated with *Cassel v. Superior Court* (2011) 51 Cal. 4th 113, in which the California Supreme Court declined to “craft an unwarranted judicial exception” to the mediation confidentiality statutes, even though excluding the evidence at issue might compromise petitioner's ability to prove his legal malpractice claim. See Ch. 191, *Discovery: Privileges and Other Limitations*, § 191.125A[1].

ELECTIONS

Adoption of Open Primary Law. At the primary election on June 8, 2010, the voters adopted Proposition 14, entitled the “Top Two Candidates Open Primary Act,” which amended the California Constitution by establishing an “open primary” procedure in primary elections. Related amendments of the Elections Code enacted by 2009 Stats., ch. 1, and conditionally operative depending on the outcome of that election,

became operative January 1, 2011. The election chapters have been revised to include an explanation of how the new law works, and various changes have been made to incorporate its provisions into the text of those chapters. See Ch. 242, *Election Campaigns*, and see Ch. 243, *Elections*.

EMPLOYMENT

City Ordinance Requiring Hotels' Mandatory Service Charges to Be Passed Along to Employees Not Preempted by State Law. In *Garcia v. Four Points Sheraton LAX* (2010) 188 Cal. App. 4th 364, the court held that a city ordinance requiring non-union hotels to pass along mandatory service charges to the workers who render the relevant services was not preempted by Lab. Code §§ 350–356, which govern the disposition of gratuities. See Ch. 531, *Statutes and Ordinances*, § 531.90[2].

Employment Law—Paid Leave for Employees Who Donate Organs or Bone Marrow. The Michelle Maykin Memorial Donation Protection Act [Lab. Code § 1508 et seq.] took effect on January 1, 2011. The Act requires certain employers to grant paid leaves of absence to employees who donate organs or bone marrow. The Act also prohibits employers from punishing or discriminating against employees who exercise their rights under the Act. See Ch. 115, *Civil Rights: Employment Discrimination*, § 115.32[8]].

Employment Law—Retaliatory Firing of Employee's Fiancé Violates Title VII. The United States Supreme Court in *Thompson v. North Am. Stainless, LP* (2011) 131 S. Ct. 863, has held that the firing of an employee's fiancé violates Title VII if it is done to retaliate against the employee for previously filing a discrimination charge against the employer. The

Court also held that the fired fiancé has standing to sue under Title VII. See Ch. 115, *Civil Rights: Employment Discrimination*, § 115.37[3][a].

Employment Law—Discharge of Employee to Honor Noncompetition Agreement Between Employee and Previous Employer Violates Public Policy. The court in *Silguero v. Creteguard, Inc.* (2010) 187 Cal. App. 4th 60 has held that the discharge of an employee violates public policy if it is done to honor a noncompetition agreement that a previous employer required the employee to sign. Noncompetition agreements violate the public policy in favor of open competition and employee mobility [see Bus. & Prof. Code § 16600], and a discharge of the employee by a subsequent employer based on such an agreement also violates public policy. See Ch. 249, *Employment Law: Termination and Discipline*, § 249.12[1].

Employment Law—Employee Who Opt for Administrative Remedy Must Exhaust Judicial Review of Administrative Determination. The California Supreme Court in *Murray v. Alaska Airlines, Inc.* (2010) 50 Cal. 4th 860 has held that an employee who filed a voluntary, optional administrative complaint with the U.S. Secretary of Labor under a federal whistleblower-protection law [see 49 U.S.C. § 42121(b)(1), (3)(B)] was required to exhaust any available judicial avenues for the reversal of adverse findings. The employee's failure to do so caused the Secretary's adverse determination—that the employee's termination was not causally related to his whistleblowing—to become a final order not subject to judicial review [see 49 U.S.C. § 42121(b)(2)(A)]. As a result, the Secretary's adverse determination precluded the employee from relitigating the issue of causation in a wrongful-termination lawsuit. See Ch. 249,

Employment Law: Termination and Discipline, § 249.21[20].

Public Employees—Public Entity May Unilaterally Decide to Lay Off Employees But Must Participate in Collective Bargaining Over Implementation of That Decision. The California Supreme Court in *International Ass'n of Fire Fighters, Local 188 v. Public Emp't Relations Bd.* (2011) 51 Cal. 4th 259 has held that under the Meyers-Milias-Brown Act, a local public entity that is faced with a decline in revenues or other financial adversity may unilaterally decide to lay off some of its employees to reduce its labor costs. In such a situation, however, the public entity must give its employees an opportunity to bargain over the implementation of the decision, including the number of employees to be laid off and the timing of the layoffs, as well as the effects of the layoffs on the workload and safety of the remaining employees. See Ch. 118, *Civil Service*, § 118.52[3].

Teachers—Driving Under Influence Does Not Constitute Unfitness to Teach Per Se. The court in *Broney v. California Comm'n on Teacher Credentialing* (2010) 184 Cal. App. 4th 462 has held that driving under the influence is not an offense specified by the Legislature as sufficient per se to justify suspension or revocation of a teaching credential. Instead, a person convicted of driving under the influence is entitled to a hearing that determines fitness to teach based on all the relevant circumstances. See Ch. 512, *Schools: Certification, Dismissal, and Related Employment Issues*, § 512.18[1].

Teachers—School Board Must Follow Statutory Procedure to Suspend or Transfer Teacher Based on Mental Illness. The court in *Doe v. Lincoln Unified Sch. Dist.* (2010) 188 Cal. App. 4th 758 has

held that when a school board suspects that a teacher is suffering from mental illness, the board has discretion to decide to suspend or transfer the teacher or to allow him or her to continue teaching. However, once the board decides to suspend or transfer the teacher, it must follow the procedures prescribed by Educ. Code § 44942. The board cannot use other methods, such as forcing the teacher to use accrued medical-leave credits, to keep the teacher from returning to the classroom. See Ch. 512, *Schools: Certification, Dismissal, and Related Employment Issues*, § 512.35.

FAMILY LAW

Contempt—Order Restraining Parent from “Interfering” with Other Parent’s Custody Is Not Overbroad. In *In re Marriage of Hartmann* (2010) 185 Cal. App. 4th 1247, the court held that an order restraining one parent from “interfering” with the other parent’s court-ordered custodial time is not overbroad, vague, or ambiguous. Accordingly, the appellate court affirmed the trial court’s order. See Ch. 135, *Contempt*, §§ 135.13[3][b][i], 135.14[5][a].

Surrogacy Facilitators. Surrogacy facilitators must meet the requirements of Fam. Code §§ 7960 and 7961, effective 1/1/11. See Ch. 12, *Adoptions: Nature and Effect*, § 12.16[3].

Ex Parte Order Terminating Parental Rights. Under Fam. Code § 7667(c), effective 1/1/11, a court may dispense with a hearing and issue an ex parte order terminating parental rights if the father’s identity or whereabouts are unknown, the alleged father has validly executed a waiver of the right to notice or a waiver or denial of paternity, the alleged father has been served with written notice of his alleged paternity and the proposed adoption, and has failed to bring an action under Fam. Code

§ 7630(c) within 30 days of service of the notice or the child's birth, whichever is later. See Ch. 12A, *Adoptions: Termination of Parental Rights*, § 12A.34[2].

Putative Spouse Status. In *In re Marriage of Guo* (2010) 186 Cal. App. 4th 1491, an alleged spouse cannot claim putative spouse status based on the other purported spouse's good faith belief in the validity of the marriage, when the alleged spouse did not have such a good faith belief. See Ch. 25, *Annulment (Nullity) of Marriage and Related Spousal Rights*, § 25.52.

Constructive Fraud Between Spouses. In *In re Marriage of Starr* (2010) 189 Cal. App. 4th 277, a house that a husband purchases in his name during the marriage is deemed to be the parties' community property when the husband promised to put the wife's name on the title after the purchase is completed but does not do so. The husband's failure to add the wife's name onto the title is constructive fraud under Fam. Code § 721, and constructive fraud is presumed to be due to undue influence. See Ch. 122, *Community Property*, § 122.51[4][a].

Live Testimony at OSC Hearing. Under amended Fam. Code § 217, at the hearing on any order to show cause or notice of motion brought under the Family Code, the court must receive live, relevant, competent testimony absent a stipulation of the parties or a finding of good cause to dispense with live testimony. See Ch. 221, *Dissolution of Marriage: Procedure*, § 221.18[5][b].

Assignment of Family Law Matters. Under amended Fam. Code § 2330.3(a), a dissolution action need not be assigned to the same court department for all purposes when the assignment will result in a significant delay, unless the parties stipulate

otherwise. See Ch. 221, *Dissolution of Marriage: Procedure*, § 221.43[2].

Filing Documents Under Seal. In *In re Marriage of Nicholas* (2010) 186 Cal. App. 4th 1566, a court in a family law case may redact or seal particular documents to protect private information concerning an overriding privacy interest, including matters pertaining to the custody and visitation of minor children, as long as the court makes the required findings for doing so; such a sealing order is subject to continuing review and modification, as well as termination. See Ch. 221, *Dissolution of Marriage: Procedure*, § 221.43[8].

Improper Dismissal of Dissolution Proceeding. In *In re Marriage of Straczynski* (2010) 189 Cal. App. 4th 531, a court has no authority to dismiss a dissolution proceeding based solely on the fact that the petitioner is the subject of a conservatorship. See Ch. 221, *Dissolution of Marriage: Procedure*, § 221.90.

Setting Aside Default Judgment. In *Biscaro v. Stern* (2010) 181 Cal. App. 4th 702, a default judgment in a dissolution proceeding is void and may be set aside under Code Civ. Proc. § 473(d) at any time if it awards relief not requested in the petition. See Ch. 221, *Dissolution of Marriage: Procedure*, § 221.152[3].

Relief From Support Order. In *In re Marriage of Zimmerman* (2010) 183 Cal. App. 4th 900, aside from the six-month period specified in Code Civ. Proc. § 473(b) for moving to set aside an order, Fam. Code § 3691 is the exclusive set-aside remedy for a support order. In *County of San Diego v. Gorham* (2010) 186 Cal. App. 4th 1215, Fam. Code § 3691 does not preempt a court's inherent equitable power to set aside, at any time, a child support order or judgment that concerns both paternity and child support obtained by a local

Department of Child Support Services that is entered against a party over whom the court has not acquired personal jurisdiction because no notice was given as required under the pertinent statute. See Ch. 221, *Dissolution of Marriage: Procedure*, § 221.159[1].

Waiver of Rights by Servicemembers. The Judicial Council has approved a new form—FL-130(A), Declaration and Conditional Waiver of Rights Under the Servicemembers Civil Relief Act of 2003—that a respondent may complete and submit with the Judicial Council form of Appearance, Stipulations, and Waivers, so that the case can be decided as an uncontested matter. See Ch. 221, *Dissolution of Marriage: Procedure*, § 221.339.

Award of Entire Community Interest in Retirement Benefits. Under amended Fam. Code § 782.5, when a spouse is convicted of attempting to murder the other spouse or of soliciting the other spouse's murder, the injured spouse is entitled to an award of 100 percent of the community property interest in retirement and pension benefits. See Ch. 222, *Dissolution of Marriage: Property Division and Evaluation*, § 222.77[1].

Child's Testimony at Custody Hearing. Under amended Fam. Code § 3042, if a child is at least 14 years old and wishes to address the court regarding custody or visitation, the court must allow the child to do so unless it determines it would not be in the child's best interests. A child under 14 is not precluded from addressing the court regarding custody or visitation if the court determines that this is appropriate pursuant to the child's best interests. See Ch. 223, *Dissolution of Marriage: Child Custody*, § 223.12[2].

Order Prohibiting Speech That Interferes With Custody Order. In *In re Mar-*

riage of Hartmann (2010) 185 Cal. App. 4th 1247, the court held that to promote a child's continuing relationship with both parents, a court may issue an order restraining a parent from interfering with the other parent's custodial rights. Such an order may prohibit speech that interferes with the custody order. See Ch. 223, *Dissolution of Marriage: Child Custody*, § 223.13[2].

Role of Child's Counsel in Custody

Proceedings. Under amended Fam. Code § 3151(b), counsel must serve notices and pleadings on all parties, consistent with requirements for parties. Counsel may introduce and examine his or her own witnesses, present arguments to the court concerning the child's welfare, and participate further in the proceedings to the degree necessary to adequately represent the child, but may not be called as a witness in the proceedings. See Ch. 223, *Dissolution of Marriage: Child Custody*, § 223.20[7][a].

Compensation of Parent for Voluntary

Support. In *In re Marriage of Schopfer* (2010) 186 Cal. App. 4th 524, the court held Fam. Code § 3951(a), which requires an agreement before a parent must compensate another parent for voluntary support, this agreement was found to be satisfied when the child's father agreed to pay guideline child support to the child's step-father with whom he shared legal and physical custody after the death of the child's mother. See Ch. 224, *Dissolution of Marriage: Child Support*, § 224.36[2].

Sanctions Under Fam. Code § 271. In

In re Marriage of Tharp (2010) 188 Cal. App. 4th 1295, the court held sanctions are appropriate when a party's dilatory and uncooperative conduct has frustrated the policy of promoting settlement of litigation and cooperation among litigants, and there is no requirement that a party suffer actual injury as a prerequisite to requesting an

award of attorney's fees. See Ch. 226, *Dissolution of Marriage: Attorney's Fees*, § 226.12[4].

CLETS Information Form. Under new Cal. Rules of Ct., Rule 1.51, a California Law Enforcement Telecommunications System information form must be submitted to the court when requesting a protective order under Code Civ. Proc. §§ 527.6 or 527.8, or under Fam. Code § 6320. See Ch. 293, *Harassment and Domestic Violence*, §§ 293.100, 293.130, 293.150.

Workplace Violence Injunction. The Judicial Council has revised the forms for use in a proceeding under Code Civ. Proc. § 527.8 to obtain an injunction prohibiting workplace violence. See Ch. 293, *Harassment and Domestic Violence*, §§ 293.130–293.137.

Petition to Dissolve Marriage and Domestic Partnership. Under amended Fam. Code § 299(e), parties to a registered domestic partnership who are also married to each other may petition the court to dissolve both their marriage and their domestic partnership in a single proceeding. See Ch. 387, *Nonmarital Cohabitation*, § 387.11[3][e].

Court Order for Genetic Testing to Determine Paternity. In *H.S. v. Superior Court* (2010) 183 Cal. App. 4th 1502, the court held when a married woman has rescinded a declaration of paternity, which declared a man other than her husband as the child's biological father, a court may not order the parties to undergo genetic testing on the man's request, because there is no basis to recognize the man as a presumed father other than the rescinded declaration which is void and of no effect. See Ch. 412, *Paternity*, § 412.50[2].

JUDGMENTS, ENFORCEMENT, AND DEBT COLLECTION

Homesteads—Difficult to Sell Debtor's

Home at Execution Sale When Owned With Nondebtor.

In *Dang v. Smith* (2010) 190 Cal. App. 4th 646, the court held that if a dwelling is owned in common with a nondebtor, the debtor's interest can be sold at an execution sale only if its appraised value exceeds the value of the homestead exemption plus the total value of the joint encumbrances on the entire property. See Ch. 294, *Homesteads*, § 294.57.

JUVENILE LAW

Jurisdiction Between Dependency and Delinquency Courts. On or after January 1, 2012, if a ward of the court who was formerly a dependent child in out-of-home care and became a ward no longer appears to come within Welf. & Inst. Code §§ 601 or 602, but does still come within the description of a dependent child under Welf. & Inst. Code § 300, a petition under Welf. & Inst. Code §§ 387 or 388, may be filed for the court to assert dependency jurisdiction.. See Ch. 327, *Juvenile Courts: Jurisdiction, and General Procedures*, § 327.11[3][a].

Dependency Proceedings—Paternity. In *In re E.O.* (2010) 182 Cal. App. 4th 722, the court has correctly held that a judgment of paternity by itself does not translate into a finding of presumed father status. A paternity judgment is, as the name implies, a judicial determination that a parent and child relationship exists. It is designed primarily to settle questions of biology and provides the foundation for an order that the father provide financial support. Presumed father status, by contrast, is concerned with a different issue: whether a man has promptly come forward and demonstrated his full commitment to his parental responsibilities—emotional, financial, and otherwise. See Ch. 328, *Juvenile Courts: Dependency Proceedings*, §§ 328.60[6].

Dependency

Proceedings—Appointment of Counsel.

The section on appointment of counsel for parents or guardians and the section on role and ethical obligations of parents counsel are thoroughly revised and updated, including practice tips on dealing with parents in denial. See Ch. 328, *Juvenile Courts: Dependency Proceedings*, §§ 328.61[1][a], [b].

Dependency

Proceedings—Government Code Chapter 26.5.

A student eligible for special education must be provided with all “related services” that are required in order for the child to benefit from special education. Assembly Bill 3632, known as “26.5” because it is codified as Chapter 26.5 of the California Government Code, requires state agencies to coordinate and share resources necessary to provide services to children [Gov. Code § 7570]. See Ch. 328, *Juvenile Courts: Dependency Proceedings*, § 328.62[6][d][iii].

Dependency Proceedings—Social Services Agency Counsel. The sections on the duties of social services agency counsel are thoroughly revised, with discussion of the duties of loyalty, open communication, representation, and other topics [Gov. Code § 7570]. See Ch. 328, *Juvenile Courts: Dependency Proceedings*, § 328.63[2].

Dependency

Proceedings—Servicemembers Civil Relief Act.

Under *In re Amber M.* (2010) 184 Cal. App. 4th 1223, the Servicemembers Civil Relief Act applies to dependency proceedings and the federal statutes must be liberally construed. Consequently, where there is evidence that shows the servicemember is unavailable to appear and that his or her rights would be adversely affected if the hearing were to go forward, a stay of application must be granted;

thereafter, additional stays are discretionary and may be requested by the servicemember when his or her military duty continues to materially affect the servicemember’s ability to appear. See Ch. 328, *Juvenile Courts: Dependency Proceedings*, § 328.83.

Dependency

Proceedings—Reunification Services for Incarcerated Parents.

The sections on reunification of services for incarcerated parents is thoroughly revised with the latest amended statutes and case law, such as *In re T.G.* (2010) 188 Cal. App. 4th 687, which holds while it is true the social worker is charged with maintaining reasonable contact with the parents during the course of the reunification plan, it is also true that incarcerated and institutionalized parents (just as with all other parents) must do their part to stay in contact with the social worker. See Ch. 328, *Juvenile Courts: Dependency Proceedings*, § 328.129[4].

Dependency Proceedings—California Fostering Connections to Success Act.

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 revised and expanded federal programs and funding for certain foster children. With the enactment of the California Fostering Connections to Success Act [Stats. 2010, ch. 559 (AB 12)], this state has opted into the federal program to assist dependent youth who would normally “age out” of the system, providing assistance to such children until they reach 21 years of age. These “children” will be referred to as “nonminor dependents.” Commencing January 1, 2012, this program will begin to take effect for certain nonminor dependents. While many statutes have already been amended to reflect these changes, they are subject to cleanup legislation and new rules being drafted in 2011. During 2011 social services agencies statewide will be working to

be ready for those changes taking effect in 2012. This is an area to be watched for further developments. See Ch. 328, *Juvenile Courts: Dependency Proceedings*, § 328.180[5].

Delinquency Proceedings—Miranda Rights. Applying *Miranda*, the California Supreme Court held in *People v. Lessie* (2010) 47 Cal. 4th 1152 that a minor's request to see a parent before or during custodial interrogation does not constitute an invocation of the Fifth Amendment privilege. Prior case law to the contrary, specifically *People v. Burton* (1971) 6 Cal. 3d 375, which held that a request to speak to a parent was tantamount to an invocation absent "evidence demanding a contrary conclusion," is no longer good law. Only a request for an attorney constitutes a per se invocation of *Miranda*. See Ch. 329, *Juvenile Courts: Delinquency Proceedings*, § 329.27.

Delinquency Proceedings—Informal Supervision. The section on informal supervision of wards is updated with *Derick B. v. Superior Court* (2009) 180 Cal. App. 4th 295, which found that while many jurisdictions include other terms and conditions such as mandatory school attendance, chemical testing, curfew, and search and seizure conditions (a waiver of the minor's Fourth Amendment rights), this court has called this practice into question, at least as it relates to warrantless search and seizure. Noting that, "[if] the Legislature intended to include a Fourth Amendment waiver as a condition of the informal supervision program, it could have done so." See Ch. 329, *Juvenile Courts: Delinquency Proceedings*, § 329.35[3][c][iv].

Delinquency Proceedings—Criminal Court Proceedings. 2010 cases, at both the state and federal level, have aggressively reconsidered sentences imposed on minors

who have been prosecuted as adults. Specifically, a growing number of such sentences have been held to be unconstitutional pursuant to the Eighth Amendment [*Graham v. Florida* (2010) 130 S. Ct. 2011; *People v. Mendez* (2010) 188 Cal. App. 4th 47]. See Ch. 329, *Juvenile Courts: Delinquency Proceedings*, § 329.64[5].

Delinquency Proceedings—Parental Consent for Search and Seizure. Under *In re D.C.* (2010) 188 Cal. App. 4th 978, given the legal rights and obligations of parents toward their minor children, parents have authority to give consent to search their children's property. This is true even where the child has objected to such a search. Specifically, in the absence of evidence suggesting a parent abdicated their rights and obligations, police officers can reasonably conclude that a parent may validly consent to a search of a minor child's bedroom. See Ch. 329, *Juvenile Courts: Delinquency Proceedings*, § 329.72.

Delinquency Proceedings—Competence to Stand Trial. This section is updated with the new Welf. & Inst. Code §709, effective January 1, 2011, where incompetency is defined as the lack of, "sufficient present ability to consult with counsel and assist in preparing his or her defense with a reasonable degree of rational understanding, or [lack of] a rational as well as factual understanding of the nature of the charges or proceedings against him or her." If a minor's counsel or the court express a doubt as to the minor's competence, at any time during the pendency of any juvenile proceeding, the court must suspend the proceedings if these is substantial evidence supporting that doubt. See Ch. 329, *Juvenile Courts: Delinquency Proceedings*, § 329.73[5][b].

Delinquency Proceedings—Conditions

of Probation and Internet Use. The court in *In re Victor L.* (2010) 182 Cal. App. 4th 902 has held that conditions that a minor not possess portable communication devices, at least when they are imposed on gang members and presumably those involved in unlawful drug sales, are not unconstitutional as long as they are appropriately tailored to allow for legitimate purposes, such as work. Such orders restrict use of “tools of the trade for gang members and drug dealers and their customers” and, as such, forbid conduct that is reasonably related to future criminality. They also do not violate a constitutional right of expression as other “less sophisticated means,” such as a landline phone, the mail, or in person contact remain available. See Ch. 329, *Juvenile Courts: Delinquency Proceedings*, § 329.94[15].

Delinquency Proceedings—Extension of Benefits for Nonminor Dependents. Welf. & Inst. Code § 11400(v) creates a new jurisdictional category for “nonminor dependents” who remain eligible to receive foster care and other transitional living benefits until age 21. “Nonminor dependents” are defined as children who are in or were in foster care upon attaining the age of 18, are under child welfare or probation supervision, and have a transitional independent living case plan pursuant to federal law. These extended benefits are scheduled to commence on January 1, 2012. See Ch. 329, *Juvenile Courts: Delinquency Proceedings*, § 329.96[3][b][iv].

PUBLIC ADMINISTRATIVE LAW

Declaratory Judgment Appropriate to Delineate Authority of Department of Personnel Administration to Regulate Payment of State Employees’ Wages During Future State Budget Impasse. In *Gilb v. Chiang* (2010) 186 Cal. App. 4th 444, the court held that a superior court properly rendered a declaratory judgment

that the State Department of Personnel Administration has authority to direct the State Controller to defer paying a portion of state employees’ salaries when appropriations for salaries are unavailable due to a legislative budget impasse. The court explained that even though the current budget impasse had ended before the superior court entered judgment, declaratory relief was appropriate because legislative gridlock made it reasonable to expect that budget impasses would occur again in the future. See Ch. 182, *Declaratory Relief*, § 182.14[4].

License Revocation. In *Ziehlke v. Valverde* (2011) 151 Cal. App. 4th 1525, the court held that revocation of a commercial driver’s license pursuant to a conviction in a DMV administrative hearing based on a preponderance of the evidence standard is constitutional. See Ch. 92, *Automobiles: Drivers’ Licenses*, § 92.25[2].

Separation of Powers—Judicial and Legislative Powers This chapter is updated with *Professional Engineers in California Government v. Schwarzenegger* (2010) 50 Cal. 4th 989, which holds that the imposition of unpaid furlough days for state employees by the Governor and the Department of Personnel Administration could not be done unilaterally because the authority to establish or revise the terms and conditions of employment is conferred on the legislature not the Governor under the California constitution. See Ch. 470, *Overview of Public Administrative Law*, § 470.12[6][a].

Underground

Regulations—Interpretations. This chapter is updated with *County of Butte v. California Emergency Medical Services Authority* (2010) 187 Cal. App. 4th 1175, which holds that an emergency medical services authorities’ interpretation of when

a “change in manner and scope” under Health & Safety Code § 1797.224 would occur that would allow creation of exclusive operating areas for EMS companies without a competitive process was a generally applicable interpretation of the statute and thus a generally applicable policy that is subject to the rulemaking procedures of the Administrative Procedures Act. See Ch. 472, *Public Agency Rules*, § 472.20[3].

Underground

Regulations—Interpretations. This chapter is updated with *Clovis Unified School District v. Chiang* (2010) 188 Cal. App. 4th 794, which holds that a contemporaneous Source document rule (CSDR) developed by the state Controllers’ Office and used in auditing claims for salary and benefit costs reimbursement was an invalid underground regulation that was not properly adopted under the rulemaking procedures of the Administrative Procedures act and therefore was void. See Ch. 472, *Public Agency Rules*, § 472.20[3].

Exceptions to Formal

Adoption—Internal Management. This chapter is updated with *California School Boards Association v. State Board of Education* (2010) 186 Cal. App. 4th 1298, which holds that the Advisory Commission on Charter Schools’ policies and procedures in recommending charter schools affect school boards and teacher unions and therefore are not within the internal management exception. See Ch. 472, *Public Agency Rules*, § 472.21[1][b].

Exceptions to Formal

Adoption—Internal Management. This chapter is updated with *Californians for Pesticide Reform v. California Department of Pesticide Regulation* (2010) 184 Cal. App. 4th 887, which holds that the risk assessment process policy followed by the Department of Pesticide Regulations for

prioritizing pesticides for risk assessment under the Toxic Air Contaminants Act (TACA) was a regulation but it was subject to the internal management exception and did not have to be adopted following the rulemaking procedures of the administrative procedure act. See Ch. 472, *Public Agency Rules*, § 472.21[1][b].

Collateral Estoppel—Administrative Proceedings. This chapter is updated with *Murray v. Alaska Airlines* (2010) 50 Cal. 4th 860, which holds that an unappealed adverse finding of the Secretary of Labor in an administrative proceeding has collateral estoppel effect on a later civil lawsuit for wrongful termination in the California state court system that was removed to federal court when plaintiff failed to make a timely request for an on the record hearing before an ALJ. See Ch. 473F, *Agency Adjudication Hearings*, § 473F.41[1].

Burden of Proof—General Rules. This chapter is updated with *Farr v. County of Nevada* (2010) 187 Cal. App. 4th 669, which holds that the burden of proof is also affected by statutory rebuttable presumptions that shift the initial burden of proof in that a statutory presumption in favor of taxpayer in property tax assessment appeals required the assessor to offer proof first, not taxpayer. See Ch. 473F, *Agency Adjudication Hearings*, § 473F.51[1].

Burden of Proof—General Rules. This chapter is updated with *Brenner v. Department of Motor Vehicles* (2010) 189 Cal App. 4th 365, which holds that the burden of proof is required to shift back to the party with the initial burden when a motorist showed the BAC test results were inaccurate which rebutted DMV *prima facie* showing. See Ch. 473F, *Agency Adjudication Hearings*, § 473F.51[1].

Standard of Proof—Preponderance of the Evidence. This chapter is updated with

Utility Consumers' Action Network v. Public Utilities Com. (2010) 187 Cal. App. 4th 688, which holds that the preponderance of the evidence standard is used in Public Utility Commission proceedings to approve a power company's application for approval of a power transmission line construction project. See Ch. 473F, *Agency Adjudication Hearings*, § 473F.52[1].

Attorney's Fees—Private Attorney

General Statute. This chapter is updated with *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2010) 190 Cal. App. 4th 217, which holds that there was a significant benefit to the general public from litigation brought against two state agencies by environmental and labor organizations that challenged the regulatory approvals of a logging company's logging plan. Thus, the significant benefit requirement for award of attorney's fees under Code Civ. Proc. § 1021.5 was satisfied in this litigation. See Ch. 473G, *Agency Adjudication Decisions*, § 473G.35[9].

Attorney's Fees—Private Attorney

General Statute. This chapter is updated with *Riverwatch v. County of San Diego Department of Environmental Health* (2009) 175 Cal. App. 4th 768, which holds that city, environmental, and Indian tribe plaintiffs that brought successful writ of mandate proceeding against County of San Diego challenging approval of landfill project based on CEQA violations satisfied both necessity and financial burden and significant benefit to general public requirements for recovery of attorney's fees under Code Civ. Proc. § 1021.5. See Ch. 473G, *Agency Adjudication Decisions*, § 473G.35[9].

Attorney's Fees—Private Attorney

General Statute. This chapter is updated with *Karuk Tribe of Northern California v.*

California Regional Water Quality Control Board, North Coast Region (2010) 183 Cal. App. 4th 330, which holds that an attorney's fee award under Code Civ. Proc. § 1021.5 was not justified when Indian tribe and nonprofit corporations brought writ of mandate proceedings to challenge the California Regional Water Quality Control Board's failure to enforce provisions of California waste discharge laws against hydro electric dams and reservoirs. The court held that the plaintiffs failed to meet: 1) the "successful party requirement; 2) the important right affecting the public interest; and 3) the significant benefit requirement. See Ch. 473G, *Agency Adjudication Decisions*, § 473G.35[9].

Ordinary

Mandate

Proceedings—Ministerial Actions. This chapter is updated with *Schwartz v. Poizner* (2010) 187 Cal. App. 4th 592, which holds that ordinary mandate was not proper to compel the Insurance Commissioner to pursue additional remedies against disability insurers on behalf of disability insurance claimants because the Commissioner did not have a ministerial duty to enforce rescission rights of policy holders. See Ch. 474, *Availability of Judicial Review of Agency Decisions*, § 474.11[3][b].

Res Judicata; Administrative Proceedings. This chapter is updated with *In Re Michael K* (2010) 185 Cal. App. 4th 1112, which holds that the doctrine of res judicata prohibited relitigation of same claim in a habeas corpus writ proceeding (whether release of gravely disabled adult into home care setting after closure of state hospital was proper) when that same claim had been adjudicated in an administrative hearing and an administrative law judge found that the home care setting was not proper and ordered state agency to place adult in state hospital in Sonoma. See Ch. 474, *Availability of Judicial Review of Agency Decisions*, § 474.11[3][b].

ity of Judicial Review of Agency Decisions, § 474.15.

Exhaustion of Administrative Remedies. This chapter is updated with *Merchandising Concept Group, Inc. v. California Unemployment Insurance Appeals Board* (2010) 181 Cal. App. 4th 1274, which holds that an employer who challenged a reassessment decision of the California Unemployment Insurance Appeals Board failed to exhaust administrative remedies when the employer filed a petition for a writ of mandate in the superior court without waiting for the completion of the administrative review process before the Appeals Board. The employer had filed a claim for a refund but had not waited until the Appeals Board completed its resolution of the employer's petition for review of the denial of the refund claim. See Ch. 474A, *Timing of Judicial Review of Agency Decisions*, § 474A.11[2][b].

Exhaustion of Administrative Remedies. This chapter is updated with *Steinhart v. County of Los Angeles* (2010) 47 Cal. 4th 1298, which holds that a property owner that challenged a reassessment of her real property failed to exhaust administrative remedies when she failed to file an application for an assessment reduction with the Los Angeles County Assessment Appeals Board before filing a refund claim with the County Auditor-Controller. See Ch. 474A, *Timing of Judicial Review of Agency Decisions*, § 474A.11[2][b].

Primary Jurisdiction. This chapter is updated with *Sarale v. Pacific Gas & Electric Company* (2010) 189 Cal. App. 4th 225, which holds that the California Public Utility commission has exclusive jurisdiction to decide claims that a power utility has engaged in excessive tree trimming or unreasonable vegetation management when the utility is operating under regulatory

policies set forth by the Commission. See Ch. 474A, *Timing of Judicial Review of Agency Decisions*, § 474A.12[3].

REAL ESTATE

Mobilehome Rent Control Ordinance Was Not Facial Taking. In *Guggenheim v. City of Goleta* (9th Cir. 2010) (en banc) 2010 U.S. App. LEXIS 25981, the Ninth Circuit held that a mobilehome rent control ordinance adopted by a city upon incorporation did not effect a taking of a mobilehome park owners' property. The action was the continuation of the county ordinance, and there was no interference with the park owners' investment-backed expectations because the park had been subject to rent control when the owners bought the park. See Ch. 369, *Mobilehomes and Mobilehome Parks*, § 369.66[3].

SCHOOLS

Teachers—Driving Under Influence Does Not Constitute Unfitness to Teach Per Se. The court in *Broney v. California Comm'n on Teacher Credentialing* (2010) 184 Cal. App. 4th 462 has held that driving under the influence is not an offense specified by the Legislature as sufficient per se to justify suspension or revocation of a teaching credential. Instead, a person convicted of driving under the influence is entitled to a hearing that determines fitness to teach based on all the relevant circumstances. See Ch. 512, *Schools: Certification, Dismissal, and Related Employment Issues*, § 512.18[1].

Teachers—School Board Must Follow Statutory Procedure to Suspend or Transfer Teacher Based on Mental Illness. The court in *Doe v. Lincoln Unified Sch. Dist.* (2010) 188 Cal. App. 4th 758 has held that when a school board suspects that a teacher is suffering from mental illness, the board has discretion to decide to suspend or transfer the teacher or to allow him

or her to continue teaching. However, once the board decides to suspend or transfer the teacher, it must follow the procedures prescribed by Educ. Code § 44942. The board cannot use other methods, such as forcing the teacher to use accrued medical-leave credits, to keep the teacher from returning to the classroom. See Ch. 512, *Schools: Certification, Dismissal, and Related Employment Issues*, § 512.35.

TAXES

Property Taxes—Proposition 13 and Change in Ownership Defined. In *Phelps v. Orange County Assessment Appeals Bd.* (2010) 187 Cal. App. 4th 653, the court concluded that when an income beneficiary of a nongrantor trust has a present interest in real property held in the trust, and that interest includes the beneficial use of the property, and the value of that interest is substantially equal to the value of the fee interest, the three-part test of Rev. & Tax. Code § 60 is met, and a change in ownership occurs on that beneficiary's death, if there is a successor income beneficiary. See Ch. 540, *Taxes and Assessments*, § 540.53[3].

TORTS

Trust Beneficiaries Lacked Standing to Bring Elder Abuse Action. In *Lickter v. Lickter* (2010) 189 Cal. App. 4th 712, the court of appeal held that plaintiffs who were each paid \$10,000 from a decedent's trust had no standing as "interested persons" to prosecute an elder abuse action on the decedent's behalf, as the plaintiffs' complete interest in the trust had been satisfied and was unaffected by the elder abuse action. See Ch. 5, *Abuse of Minors and Elderly*, § 5.37.

Social Host Who Charged Entry Fee to Defray Cost of Alcohol Not Liable Under Bus. & Prof. Code § 25602.1. In *Ennabe v. Manosa* (2010) 190 Cal. App. 4th 707,

the court of appeal held that a social host who charged guests an admission or entrance fee of a few dollars to help defray the costs of making alcoholic beverages available for self-service to his or her guests was not a person who "sells, or causes to be sold" an alcoholic beverage for purposes of imposing liability for selling alcohol to an obviously intoxicated minor under Bus. & Prof. Code § 25602.1. The court also held that the host was not required to be licensed to sell alcohol under the Business and Professions Code. See Ch. 19, *Alcoholic Beverages: Civil Liability*, § 19.12[1], [2].

Acceptance of Probation Barred Civil Action Based on Arrest. In *Lujano v. County of Santa Barbara* (2010) 190 Cal. App. 4th 801, the court of appeal held that the acceptance of informal probation by a party who had been arrested barred that party from pursuing a subsequent civil action based on the party's arrest. See Ch. 58, *Assault and Battery*, § 58.22[2].

Evidence of Spousal Abuse in Dissolution Action Was Not Complete Defense to Subsequent Domestic Violence Action. In *Boblitt v. Boblitt* (2010) 190 Cal. App. 4th 603, the court of appeal held that a spouse who offers evidence of domestic violence in connection with a request for spousal support in a marital dissolution proceeding is not precluded from subsequently suing the other spouse for domestic violence, although a judgment in a dissolution action where claims of domestic violence were actually litigated may preclude re-litigation of the precise issues that were litigated and decided in the dissolution action. See Ch. 58, *Assault and Battery*, § 58.30[2].

Attorney Not Liable to Potential Beneficiary for Failing to Complete Execution of Will Before Testator's Death. In

Hall v. Kalfayan (2010) 190 Cal. App. 4th 927, the court of appeal held that an attorney who was drafting a testamentary document for a conservatee owed no duty to the conservator who was also a potential beneficiary under the will when the document was not executed before the conservatee's death. See Ch. 76, *Attorney Professional Liability*, § 76.200[3][b][ii].

Punitive Damage Award to Be Compared to Pre-Offset Amount of Compensatory Damages. In *Stewart v. Union Carbide Corp.* (2010) 190 Cal. App. 4th 23, the court of appeal held that when determining whether an award of punitive damages bears a reasonable relationship to the amount of compensatory damages awarded, the comparison to compensatory damages should be made prior to the calculation of any offset necessitated by pre-verdict settlements with other defendants. See Ch. 177, *Damages*, § 177.51[15].

Judicial Deference Not Afforded to Condominium Association That Failed to Take Any Action on Homeowners' Complaints. In *Affan v. Portofino Cove Homeowners Assn.* (2010) 189 Cal. App. 4th 930, the court of appeal held that when condominium owners sued their homeowners association for failing to take proper plumbing maintenance over a six-year period, despite repeated complaints from plaintiffs that sewage was backing up into their sinks and bathtub, the prerequisites for application of the rule of judicial deference had not been met by the association, as the evidence did not show that the association took any maintenance action at all during the relevant period, but rather appeared to ignore the problem as long as possible. See Ch. 421, *Premises Liability*, § 421.12[3][c].

U.S. Supreme Court Gives Green Light to Certain Seatbelt Claims, Finding No Preemption. In *Williamson v.*

Mazda Motor of Am., Inc. (2011) 2011 U.S. LEXIS 1711, in distinguishing *Geier v. American Honda Motor Co.* (2000) 529 U.S. 861, the high Court ruled that that FMVSS 208 did not preempt a state law claim alleging that a minivan was defective because its rear inner seat had a lap-only belt instead of a lap/shoulder belt. See Ch. 460, *Products Liability*, § 460.52[2][e].

Ninth Circuit Reverses Generic Drug Preemption Ruling. In *Gaeta v. Perrigo Pharm. Co.* (2011) 2011 U.S. App. LEXIS 1382, in reversing a decision of the federal district court for the Northern District of California, the Ninth Circuit held that *Wyeth v. Levine*'s "no preemption" ruling applies to cases involving generic as well as name-brand drugs. See Ch. 460, *Products Liability*, § 460.52[2][c].

California Supreme Court Examines Borrowing Statute and Choice-of-Law Rules. In *McCann v. Foster Wheeler LLC* (2010) 48 Cal. 4th 68, a California resident developed mesothelioma as a result of asbestos exposure that took place a half a century earlier in Oklahoma. Analysis of the borrowing statute, Cal. Code Civ. Proc. § 361, and the governmental interest analysis resulted in a finding that Oklahoma's improvement to real property statute of repose applied, barring recovery. See Ch. 460, *Products Liability*, §§ 460.31[2][c], 460.104[10], 460.104[13].

Court Sheds Light on Consumer Expectations, Risk-Benefits Tests. In *Bell v. Bayerische Motoren Werke Aktiengesellschaft* (2010) 181 Cal. App. 4th 1108, a husband and wife brought a products liability action after the husband lost control of his vehicle and suffered severe injuries. The jury was entitled to disregard the testimony of the defendants' engineers in concluding that the potential risks would have been apparent to an ordinary consumer. The

court also stated that aesthetics is a proper consideration in the risk-benefit analysis. See Ch. 460, *Products Liability*, §§ 460.11[9][b][ii], [iii], 460.104[16][b].

State-Law Claims Involving Medical Device Were Preempted Under Riegel. In *McGuan v. Endovascular Techs., Inc.* (2010) 182 Cal. App. 4th 974 and *Robinson v. Endovascular Techs., Inc.* (2010) 190 Cal. App. 4th 1490, the court held the MDA preempted state law claims for strict products liability, negligence, breach of express and implied warranty, fraud-on-the-FDA, and fraud involving the Ancure Endograft System. See Ch. 460, *Products Liability*, § 460.52[2][b][v], [vii], 460.104[39].

Defendant's Gamesmanship Leads to Reversal of Dismissal of Action on Forum Non Conveniens Grounds Reversed. In *Martinez v. Ford Motor Co.* (2010) 185 Cal. App. 4th 9, the decedents were killed in a crash in Mexico of a Ford Explorer purchased in California. The court of appeal determined that the defendants delayed filing their forum non conveniens motion to take advantage of discovery mechanisms that do not exist in Mexico, and the dismissal was reversed. See Ch. 460, *Products Liability*, § 460.104[22].

Plaintiff Could Not Prove Exposure to Asbestos Caused by Contractor; Summary Judgment Affirmed. In *Whitmire v. Ingersoll-Rand Co.* (2010) 184 Cal. App. 4th 1078, an electrician who worked at power plants developed mesothelioma. He claimed that he had been exposed to asbestos when the defendant was performing overhaul work on boilers, and due to its acting as the general contractor for construction. The evidence did not create a triable issue of fact regarding exposure to asbestos attributed to defendant. See Ch. 460, *Products Liability*,

§ 460.11[9][b][iv][A], [B], 460.104[10].

Trial Court Erred in Refusing to Instruct Jury on Consumer Expectations

Test in Asbestos Case. In *Saller v. Crown Cork Seal Co.* (2010) 187 Cal. App. 4th 1220, a worker exposed to asbestos insulation at a refinery in the 1960s died from mesothelioma. The trial court committed reversible error in refusing to give the consumer expectations test jury instruction, CACI No. 1203. Although the court did not need to address the issue, it also determined that the evidence supported giving the strict liability failure-to-warn instruction, CACI No. 1205. See Ch. 460, *Products Liability*, § 460.11[9][b][ii],[iii], 460.11[1][a][iii], [iv], 460.104[29][j], 460.104[46].

Jury Award of \$6.84 Million in Asbestos Case Survives Appellate Review.

In *Stewart v. Union Carbide Corp.* (2010) 190 Cal. App. 4th 23, the jury found in favor of a plumber who contended that his mesothelioma was caused by asbestos-containing joint compound. The court of appeal upheld the verdict, rejecting the asbestos supplier's proposed "sophisticated purchaser" jury instruction. The court also found that the evidence supported the jury's allocation of liability, and that the \$6 million punitive damages award did not violate federal constitutional standards. See Ch. 460, *Products Liability*, § 460.11[9][b][iv][D], 460.11[10][b][vii], 460.33[2][d][iv], 460.104[10], 460.104[15][b], 460.104[29][a.1].

UNFAIR COMPETITION

Penalty Under Lab. Code § 203 Not Recoverable as Restitution in Unfair Competition Action.

In *Pineda v. Bank of America, N.A.* (2010) 50 Cal. 4th 1389, the California Supreme Court held that a penalty imposed on an employer under Lab. Code § 203 for failure to pay earned wages on time may not be recovered as restitution

under the unfair competition statute. See Ch. 565, *Unfair Competition*, § 565.34[3][b].

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Publication 181, Release 187, May 2011

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Publication 181 Release 187

May 2011

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- 1. Check the Title page in the front of your present Volume 1. It should indicate that your set is filed through Release Number 186. If the set is current, proceed with the filing of this release. If your set is not filed through Release Number 186, DO NOT file this release. Please call Customer Services at 1-800-833-9844 for assistance in bringing your set up to date.
- 2. This Release Number 187 consists of two packages:
 - Package 1 contains White Revision pages for Volumes 1 thru 27
 - Package 2 contains White Revision pages for Volumes 28 thru 53
- 3. Circulate the "Publication Update" among those individuals interested in the contents of this release.

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VOLUME 1

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	1-1 thru 1-2.1	1-1 thru 1-2.1
<input type="checkbox"/>	1-16.2(3)	1-16.2(3) thru 1-16.2(5)
<input type="checkbox"/>	1-497.	1-497 thru 1-527
<input type="checkbox"/>	3-1.	3-1 thru 3-2.1
<input type="checkbox"/>	3-19	3-19 thru 3-20.1
<input type="checkbox"/>	5-27 thru 5-28.3.	5-27 thru 5-28.3
<input type="checkbox"/>	6-9.	6-9

VOLUME 2

Revision

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<input type="checkbox"/>	12-1 thru 12-3	12-1 thru 12-3
<input type="checkbox"/>	12-17 thru 12-19	12-17 thru 12-20.1
<input type="checkbox"/>	12A-11 thru 12A-31.	12A-11 thru 12A-31
<input type="checkbox"/>	12A-45 thru 12A-58.1	12A-45 thru 12A-58.3
<input type="checkbox"/>	12A-69 thru 12A-79.	12A-69 thru 12A-77
<input type="checkbox"/>	12B-9	12B-9
<input type="checkbox"/>	12B-25 thru 12B-27.	12B-25 thru 12B-27
<input type="checkbox"/>	12B-61	12B-61 thru 12B-62.1
<input type="checkbox"/>	12B-75 thru 12B-87.	12B-75 thru 12B-87
<input type="checkbox"/>	12B-95 thru 12B-96.3	12B-95 thru 12B-96.3
<input type="checkbox"/>	12B-117 thru 12B-142.7	12B-117 thru 12B-142.5
<input type="checkbox"/>	12E-19	12E-19
<input type="checkbox"/>	14-25 thru 14-26.1	14-25
<input type="checkbox"/>	14-73.	14-73 thru 14-74.1
<input type="checkbox"/>	16-59 thru 16-60.1	16-59 thru 16-60.1

VOLUME 3

Revision

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<input type="checkbox"/>	19-11.	19-11 thru 19-12.1
<input type="checkbox"/>	25-31 thru 25-35	25-31 thru 25-36.1
<input type="checkbox"/>	26APP-3	26APP-3 thru 26APP-4.1
<input type="checkbox"/>	26APP-29 thru 26APP-41.	26APP-29 thru 26APP-42.1

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VOLUME 4

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	31-15.	31-15 thru 31-16.1
<input type="checkbox"/>	31-23 thru 31-28.5	31-23 thru 31-28.5
<input type="checkbox"/>	32-5 thru 32-7	32-5 thru 32-8.1
<input type="checkbox"/>	32-29.	32-29 thru 32-30.1
<input type="checkbox"/>	32-58.1 thru 32-59	32-59 thru 32-60.1
<input type="checkbox"/>	32-66.2(1) thru 32-66.3	32-66.3 thru 32-66.4(1)
<input type="checkbox"/>	32-66.12(7) thru 32-66.17	32-66.13 thru 32-66.23
<input type="checkbox"/>	32-77 thru 32-84.1	32-77 thru 32-84.3
<input type="checkbox"/>	32-97 thru 32-99	32-97 thru 32-99
<input type="checkbox"/>	32-147	32-147
<input type="checkbox"/>	33-30.13 thru 33-30.15	33-30.13 thru 33-30.15
<input type="checkbox"/>	34-3 thru 34-4.1.	34-3 thru 34-4.1
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<input type="checkbox"/>	34-36.1 thru 34-36.5.	34-36.1 thru 34-36.5
<input type="checkbox"/>	34-49 thru 34-54.1	34-49 thru 34-54.1
<input type="checkbox"/>	36-93.	36-93
<input type="checkbox"/>	38-53 thru 38-57	38-53 thru 38-57

VOLUME 5

Revision

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<input type="checkbox"/>	41-33 thru 41-39	41-33 thru 41-40.1
<input type="checkbox"/>	41-71 thru 41-74.1	41-71 thru 41-74.1
<input type="checkbox"/>	42-13 thru 42-21	42-13 thru 42-22.1
<input type="checkbox"/>	42-35.	42-35
<input type="checkbox"/>	42-45.	42-45 thru 42-46.1
<input type="checkbox"/>	42-55 thru 42-59	42-55 thru 42-60.1
<input type="checkbox"/>	42-70.9.	42-70.9
<input type="checkbox"/>	44-19.	44-19 thru 44-20.1
<input type="checkbox"/>	44-39.	44-39 thru 44-40.1
<input type="checkbox"/>	50-45.	50-45 thru 50-46.1
<input type="checkbox"/>	50-70.1.	50-70.1

VOLUME 6

Revision

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<input type="checkbox"/>	58-47.	58-47
<input type="checkbox"/>	59-11.	59-11 thru 59-12.1
<input type="checkbox"/>	59-24.1 thru 59-25	59-25 thru 59-26.1
<input type="checkbox"/>	59-48.9 thru 59-48.19	59-48.9 thru 59-48.21
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<input type="checkbox"/>	59-50.33	59-50.33 thru 59-50.34(1)
<input type="checkbox"/>	59-50.43 thru 59-50.44(9)	59-50.43 thru 59-50.44(9)
<input type="checkbox"/>	62-1	62-1 thru 62-2.1

VOLUME 7

Revision

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<input type="checkbox"/>	72-195	72-195
<input type="checkbox"/>	72-219 thru 72-221	72-219 thru 72-221
<input type="checkbox"/>	72-243 thru 72-245	72-243 thru 72-245
<input type="checkbox"/>	72-463	72-463
<input type="checkbox"/>	76-51.	76-51
<input type="checkbox"/>	76-111 thru 76-112.1	76-111 thru 76-112.1

VOLUME 8

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	92-23 thru 92-24.1	92-23 thru 92-24.1
<input type="checkbox"/>	92-133	92-133

VOLUME 9

Revision

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<input type="checkbox"/>	93-55.	93-55
<input type="checkbox"/>	94-21.	94-21 thru 94-22.1
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<input type="checkbox"/>	95-99.	95-99
<input type="checkbox"/>	97-9 thru 97-27	97-9 thru 97-25

VOLUME 11

Revision

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<input type="checkbox"/>	113-37	113-37

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<input type="checkbox"/>	113-103 thru 113-104.1	113-103 thru 113-104.1
<input type="checkbox"/>	113-110.7 thru 113-110.12(4)(a)	113-110.7 thru 113-110.12(4)(c)
<input type="checkbox"/>	113-110.31 thru 113-110.39	113-110.31 thru 113-110.40(1)
<input type="checkbox"/>	114-5.	114-5
<input type="checkbox"/>	114-14.1 thru 114-21	114-15 thru 114-22.3
<input type="checkbox"/>	114-43 thru 114-58.9	114-43 thru 114-58.10(11)
<input type="checkbox"/>	114-58.25 thru 114-58.29	114-58.25 thru 114-58.30(1)
<input type="checkbox"/>	115-2.1 thru 115-5.	115-3 thru 115-6.1
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<input type="checkbox"/>	115-161	115-161 thru 115-162.1
<input type="checkbox"/>	115-175	115-175 thru 115-176.1
<input type="checkbox"/>	116-65 thru 116-70.6(1)	116-65 thru 116-70.6(1)
<input type="checkbox"/>	117A-21 thru 117A-22.5.	117A-21 thru 117A-22.5
<input type="checkbox"/>	118-65	118-65 thru 118-66.1

VOLUME 12

Revision

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<input type="checkbox"/>	122-59	122-59 thru 122-60.1
<input type="checkbox"/>	122-81 thru 122-84.1	122-81 thru 122-84.1
<input type="checkbox"/>	122-105 thru 122-107	122-105 thru 122-107
<input type="checkbox"/>	122-125 thru 122-130.1	122-125 thru 122-130.1
<input type="checkbox"/>	124-4.1 thru 124-5	124-5 thru 124-6.1
<input type="checkbox"/>	124-83 thru 124-85	124-83 thru 124-85

VOLUME 13

Revision

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<input type="checkbox"/>	127-101	127-101
<input type="checkbox"/>	128-35	128-35 thru 128-36.1
<input type="checkbox"/>	135-17 thru 135-22.1	135-17 thru 135-21
<input type="checkbox"/>	136-28.1 thru 136-29	136-29 thru 136-30.1
<input type="checkbox"/>	140-127 thru 140-131	140-127 thru 140-132.1
<input type="checkbox"/>	140-231 thru 140-241	140-231 thru 140-241

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Pages Numbered*

VOLUME 14

Revision

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<input type="checkbox"/>	168-10.1 thru 168-12.1	168-11 thru 168-12.1

VOLUME 15

Revision

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<input type="checkbox"/>	174-141	174-141 thru 174-142.1
<input type="checkbox"/>	174-157	174-157 thru 174-158.1
<input type="checkbox"/>	174-179	174-179 thru 174-180.1
<input type="checkbox"/>	174-333	174-333
<input type="checkbox"/>	174-363 thru 174-365	174-363 thru 174-365
<input type="checkbox"/>	177-87 thru 177-88.1	177-87 thru 177-88.1
<input type="checkbox"/>	182-11 thru 182-17	182-11 thru 182-18.1
<input type="checkbox"/>	184-77 thru 184-78.1	184-77 thru 184-78.1

VOLUME 16

Revision

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<input type="checkbox"/>	191-113 thru 191-119	191-113 thru 191-119

VOLUME 17

Revision

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<input type="checkbox"/>	212-33	212-33 thru 212-34.1
<input type="checkbox"/>	212-101 thru 212-102.1	212-101 thru 212-102.1
<input type="checkbox"/>	215-41 thru 215-44.1	215-41 thru 215-43
<input type="checkbox"/>	215-53	215-53

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VOLUME 18

Revision

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<input type="checkbox"/>	221-51 thru 221-53	221-51 thru 221-53
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<input type="checkbox"/>	221-139 thru 221-141	221-139 thru 221-141
<input type="checkbox"/>	221-163 thru 221-177	221-163 thru 221-178.1
<input type="checkbox"/>	221-187 thru 221-211	221-187 thru 221-209
<input type="checkbox"/>	221-319 thru 221-321	221-319 thru 221-322.1
<input type="checkbox"/>	222-55 thru 222-63	222-55 thru 222-63
<input type="checkbox"/>	222-227	222-227

VOLUME 19

Revision

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<input type="checkbox"/>	224-5.	224-5
<input type="checkbox"/>	224-15 thru 224-19	224-15 thru 224-19
<input type="checkbox"/>	224-47 thru 224-50.1	224-47 thru 224-50.1
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<input type="checkbox"/>	225-29	225-29
<input type="checkbox"/>	225-83	225-83 thru 225-84.1
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<input type="checkbox"/>	226-1 thru 226-5	226-1 thru 226-5
<input type="checkbox"/>	226-15 thru 226-31	226-15 thru 226-31
<input type="checkbox"/>	227-97	227-97

VOLUME 20

Revision

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<input type="checkbox"/>	242-21 thru 242-27	242-21 thru 242-28.1

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<input type="checkbox"/>	242-41 thru 242-69	242-41 thru 242-70.3
<input type="checkbox"/>	242-82.1 thru 242-86.11	242-83 thru 242-86.11

Blue Special Alert

<input type="checkbox"/>	Blue Special Alert to Chapter 243 page 243SA-1 (following Ch. 243 ELECTIONS Tab Card).	White Special Alert to Chapter 243 page 243SA-1 (following Ch. 243 ELECTIONS Tab Card)
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Revision

<input type="checkbox"/>	243-1.	243-1 thru 243-2.1
<input type="checkbox"/>	243-15 thru 243-71	243-15 thru 243-72.1
<input type="checkbox"/>	243-99 thru 243-101.	243-99 thru 243-101

VOLUME 21

Revision

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<input type="checkbox"/>	249-76.1 thru 249-76.7	249-76.1 thru 249-76.7
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<input type="checkbox"/>	254-121	254-121

VOLUME 22

Revision

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<input type="checkbox"/>	259-59	259-59
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<input type="checkbox"/>	268-1 thru 268-25.	268-1 thru 268-26.1

VOLUME 23

Revision

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<input type="checkbox"/>	276-21	276-21
<input type="checkbox"/>	276-47	276-47

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VOLUME 25

Revision

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VOLUME 26

Revision

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<input type="checkbox"/>	308-165	308-165 thru 308-166.1
<input type="checkbox"/>	308-240.1 thru 308-255	308-241 thru 308-256.1
<input type="checkbox"/>	308-277 thru 308-279	308-277 thru 308-280.1
<input type="checkbox"/>	308-309	308-309 thru 308-310.1

VOLUME 27

Revision

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<input type="checkbox"/>	318-133	318-133

VOLUME 28

Revision

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<input type="checkbox"/>	327-55	327-55 thru 327-56.1
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VOLUME 30

Revision

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<input type="checkbox"/>	345APP-22.1 thru 345APP-25.	345APP-23 thru 345APP-26.1
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<input type="checkbox"/>	345APP-73.	345APP-73

VOLUME 31

Revision

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<input type="checkbox"/>	358-47	358-47
<input type="checkbox"/>	358-105 thru 358-108.1	358-105 thru 358-108.1

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VOLUME 32

Revision

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<input type="checkbox"/>	369-91	369-91 thru 369-92.1

VOLUME 33

Revision

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<input type="checkbox"/>	371-75 thru 371-76.1	371-75 thru 371-76.1
<input type="checkbox"/>	376-35	376-35 thru 376-36.1
<input type="checkbox"/>	376-45 thru 376-61	376-45 thru 376-62.1
<input type="checkbox"/>	377-11	377-11 thru 377-12.1
<input type="checkbox"/>	377-21	377-21 thru 377-22.1
<input type="checkbox"/>	380-95	380-95

VOLUME 34

Revision

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<input type="checkbox"/>	394-17 thru 394-24.5	394-17 thru 394-24.5

VOLUME 35

Revision

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<input type="checkbox"/>	412-59 thru 412-61	412-59 thru 412-61
<input type="checkbox"/>	412-77 thru 412-79	412-77 thru 412-79

**Check
As
Done**

Remove Old
Pages Numbered

Insert New
Pages Numbered

VOLUME 36

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	418-83 thru 418-90.2(1)	418-83 thru 418-90.2(1)
<input type="checkbox"/>	421-17 thru 421-18.1	421-17 thru 421-18.1

VOLUME 40

Revision

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<input type="checkbox"/>	460-233	460-233
<input type="checkbox"/>	460-249	460-249
<input type="checkbox"/>	469-7 thru 469-9	469-7 thru 469-9
<input type="checkbox"/>	469-35 thru 469-37	469-35 thru 469-37
<input type="checkbox"/>	469-55 thru 469-63	469-55 thru 469-61

VOLUME 41

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	470-35 thru 470-37	470-35 thru 470-37
<input type="checkbox"/>	470B-64.7 thru 470B-64.11	470B-64.7 thru 470B-64.11
<input type="checkbox"/>	470C-3	470C-3 thru 470C-4.1
<input type="checkbox"/>	470C-44.1 thru 470C-59	470C-45 thru 470C-60.5
<input type="checkbox"/>	470C-79	470C-79 thru 470C-80.1
<input type="checkbox"/>	472-29 thru 472-31	472-29 thru 472-32.1
<input type="checkbox"/>	472A-22.1 thru 472A-22.3	472A-22.1 thru 472A-22.3
<input type="checkbox"/>	472A-31	472A-31 thru 472A-32.1

VOLUME 41A

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	473-49	473-49
<input type="checkbox"/>	473F-75	473F-75

<u>Check As Done</u>	<u>Remove Old Pages Numbered</u>	<u>Insert New Pages Numbered</u>
<input type="checkbox"/>	473F-80.4(1) thru 473F-91.	473F-81 thru 473F-92.1
<input type="checkbox"/>	473G-55 thru 473G-56.1.	473G-55 thru 473G-56.1
<input type="checkbox"/>	474-10.1 thru 474-16.1	474-11 thru 474-16.1
<input type="checkbox"/>	474-42.5 thru 474-42.9	474-42.5 thru 474-42.11
<input type="checkbox"/>	474A-21 thru 474A-23	474A-21 thru 474A-24.1
<input type="checkbox"/>	474A-31 thru 474A-36.1.	474A-31 thru 474A-36.1
<input type="checkbox"/>	474A-40.23 thru 474A-40.27.	474A-40.23 thru 474A-40.27
<input type="checkbox"/>	474B-21 thru 474B-24.7.	474B-21 thru 474B-24.7

VOLUME 43

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	490-17	490-17
<input type="checkbox"/>	490-51	490-51
<input type="checkbox"/>	491-67 thru 491-77	491-67 thru 491-78.1

VOLUME 44

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	504-9.	504-9 thru 504-10.1

VOLUME 45

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	512-25 thru 512-27	512-25 thru 512-27
<input type="checkbox"/>	512-75	512-75 thru 512-76.1
<input type="checkbox"/>	513-3 thru 513-4.1	513-3 thru 513-4.1
<input type="checkbox"/>	513-67	513-67 thru 513-68.1
<input type="checkbox"/>	515-121	515-121 thru 515-122.1

VOLUME 46

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	520-1.	520-1
<input type="checkbox"/>	520-27 thru 520-28.1	520-27 thru 520-28.1
<input type="checkbox"/>	520-61 thru 520-62.1	520-61 thru 520-62.1
<input type="checkbox"/>	531-15	531-15
<input type="checkbox"/>	531-31	531-31 thru 531-32.1
<input type="checkbox"/>	531-45	531-45

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VOLUME 47

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	536-13	536-13
<input type="checkbox"/>	540-41 thru 540-45	540-41 thru 540-46.1
<input type="checkbox"/>	540-105	540-105 thru 540-106.1
<input type="checkbox"/>	540-123	540-123 thru 540-124.1

VOLUME 49

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	565-33 thru 565-39	565-33 thru 565-40.1

VOLUME 50

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	568-25	568-25
<input type="checkbox"/>	568-51	568-51

VOLUME 51

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	573-1 thru 573-17.	573-1 thru 573-21

VOLUME 52

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	I-71 thru I-103	I-71 thru I-104.1
<input type="checkbox"/>	I-355 thru I-367.	I-355 thru I-368.1
<input type="checkbox"/>	I-503 thru I-545.	I-503 thru I-546.1
<input type="checkbox"/>	I-625 thru I-645.	I-625 thru I-646.1

VOLUME 53

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	I-927 thru I-933.	I-927 thru I-933

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<input type="checkbox"/>	I-963 thru I-965.	I-963 thru I-966.1
<input type="checkbox"/>	I-1017 thru I-1019.	I-1017 thru I-1020.1
<input type="checkbox"/>	I-1057 thru I-1099.	I-1057 thru I-1100.1
<input type="checkbox"/>	I-1137 thru I-1155.	I-1137 thru I-1156.1
<input type="checkbox"/>	I-1311 thru I-1325.	I-1311 thru I-1326.1
<input type="checkbox"/>	I-1499 thru I-1515.	I-1499 thru I-1515

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Publication 181, Release 187, May 2011

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