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Questions and Comments

NEWS RULINGS VERDICTS

Friday, December 12, 2014

Labor/Employment**Labor board reverses precedent, allows workers to use email for union discussions**

The National Labor Relations Board ruled Thursday that employees can use work email for union communications. The decision in the much-watched case reverses board precedent allowing employers to forbid the communications.

**Ethics/Professional Responsibility
About judicial praise**

Imagine you receive an email message from a friend (who happens to be a judge) affirming your friendship and professional achievements, and encouraging you to share his assessment. What could go wrong? By **Steven R. Trybus**

Litigation**Right-wing think tank sues AG over alleged rights infringement**

Americans for Prosperity challenged Kamala Harris' authority to revoke its tax-exempt status for refusing to turn over the donor information, calling her efforts an abrogation of federal law and the constitutional right to free speech.

California Courts of Appeal**Attorneys at Bet Tzedek net ruling to help unaccompanied immigrant minors**

Unaccompanied undocumented children must be treated the same as any other child seeking legal guardianship through the probate courts, according to a 2nd District Court of Appeal ruling.

Litigation**Crossfit latest fitness brand to launch court battles over trademark**

A massive surge in popularity enjoyed by CrossFit Inc. over the past several years has also led to another major increase for the company behind the workout phenomenon sweeping the nation: litigation.

Government**San Francisco Superior Court, SEIU reach agreement on labor negotiations**

The court will allow employees to have five floating holidays starting January after a strike in October.

Sources: new Assembly privacy committee could hurt push to protect people's information

Retired judge brings wit, wisdom to mediation work

Albert Dover uses food as a tool to help mediate thorny disputes**Albert Dover**Independent
Nevada City**Areas of specialty:** probate, real estate disputes, business dissolution**By Emily Green**

Albert Dover would have you believe that the trick to getting parties to resolve their disputes is the magic pastry he serves at the beginning of mediation.

"This particular pastry has never met a problem it can't solve," the retired Nevada County Superior Court judge tells the sparring litigants. "This magic pastry will imbue you with insight, perspective and peace."

Dover said he offers the magic pastry to "lighten the environment," but the gesture is also rich with meaning.

"People stand in line together with their paper plate and plastic fork," said Daniel Spector, a Sacramento trust and probate lawyer with Spector Weir LLP. "They take the magic pastry back to their room having shared bread with somebody. It's genius."

"When people break bread together that has some symbolic meaning in our culture," said Roseville attorney John Sinclair with Sinclair Wilson Baldo & Chamberlain. "It helps to shape the tone of what's to come in a subconscious but powerful way."

Dover hails from Nevada County - the heart of gold country - and many lawyers said he is, like his adopted hometown, the gold standard among mediators and their first choice to resolve disputes. He works on his own.

"He's a very judicious, wise man," Sinclair said. "At the same time, he is able to go brass tacks and calculate numbers and know the issues quickly."

Dover spends half his mediations on probate matters and the balance on real estate disputes, business breakups and other civil cases. His mediations regularly involve fights over a couple million dollars, and the biggest was roughly \$60 million.

Roughly 40 percent of his mediations occur in Nevada and Placer Counties, 40 percent in Sacramento and the remainder in other areas throughout Northern California. He mediates on average one case a week for eight and a half months a year.

Dover relies on a mix of storytelling, psychoanalysis, and wisdom garnered from 20

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years as a judge to get parties to settle. In his spare time, he studies brain science and reads psychology books about how people make decisions.

"People think they are rational beings," Dover said. "People are feeling beings that can put a rational thought together. But almost never when they are angry, upset or hurt."

Dover, who follows Buddhist principles, repeats the following words to himself before entering mediations: presence, intention, wit, wisdom and compassion.

A sizable number of his probate cases involve older men who have married young women and disputes between the new wife and the husband's children from a previous marriage.

"It doesn't help me to judge people," he said. "It only helps me to be compassionate towards them."

Dover tells stories to litigants to underscore his points - like of the wife who got mad at her husband when he told her at a party not to eat a cookie, even though she previously asked him to keep her away from them.

The wife's experience of feeling humiliated was "totally valid," Dover said, but it doesn't mean the husband had a malicious intent.

"His approach is, I think, connecting on the personal level and his stories him to do that," said Maralee Nelder, a family law attorney in Grass Valley. "You need a good blend of business sense and old-fashioned counselor, and he excels at both."

Dover's meditation strategies mirror, in some ways, his eclectic life.

He met his wife at an ecstatic dance retreat in Big Sur, kept long hair into his thirties, did beekeeping as a hobby and to this day lives on a 140-acre ranch - located on "Peaceful Valley Road."

Dover was also a successful criminal defense attorney, became vice president of the California Judges Association and served on the judiciary's policymaking body at a time of transformation in the branch.

He retired from the bench in 2007 after 20 years as a judge.

Dover's interest in private judging, he said, is to reduce suffering in the world.

He recalled a time in 1969, when he was 21. He sat in a mediation circle with seven other people, all but one of them in their twenties.

They took turns saying what they wanted for themselves in their lives. Dover recalls the older man saying what he wanted was less suffering for himself and others. At the time, Dover thought to himself, "how sad."

"Now if you asked me the same question," he said, "I would say the same."

Here are some attorneys who have used Dover as a mediator:

Susan Corcoran, Corcoran Law Group, Grass Valley; Daniel Spector, Spector Weir LLP, Sacramento, James Simon, Sacramento; Robin Klomparens, Wagner Kirkman Blaine Klomparens & Youmans LLP, Mather; Therese Cannata, Cannata Ching & O'Toole LLP, San Francisco; Debra Sitzberger, Nevada City; Edward Corey, Weintraub Tobin Chediak Coleman & Grodin, Sacramento; Bette Epstein, Reed Smith LLP, San Francisco; John Sinclair, Sinclair Wilson Baldo & Chamberlain, Roseville; John Bilheimer, Haley & Bilheimer, Nevada City; Maralee Nelder, Grass Valley

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The problem with the new Committee on Privacy and Consumer Protection, according to some sources, is that its focus on privacy issues has previously been the domain of other influential committees.

California Supreme Court Justices say court should have allowed hearing over extent of DA's involvement in case

Ventura County Superior Court should have allowed an evidentiary hearing over whether to disqualify a prosecutor in a high-profile murder trial, the California Supreme Court ruled Thursday.

Government Storm shuts down SF federal courthouse, a host of law firms

The strong winds and heavy rain in Northern California on Thursday forced the San Francisco federal courthouse to shut down while a number of law firms were hamstrung by power outages.

Environmental State Supreme Court accepts two environmental cases for review

In one case, the justices will be asking how far the state can go to limit seawall construction on the California coast. In the second, the court will wrestle over whether CEQA applies to government-backed railroad projects.

Solo and Small Firms Formidable opponent

But being outnumbered is nothing new for small outfit Samini Scheinberg PC. The six-attorney firm has faced off against some of the state's biggest firms in a string of high profile cases.

Ethics/Professional Responsibility California attorney sentenced to 17 years for 'pump and dump' scheme

A California attorney was sentenced Dec. 5 to 17 years in prison in the Southern District of Florida for facilitating a multi-million dollar "pump-and-dump" market manipulation scheme over the course of five years.

U.S. Court of Appeals for the 9th Circuit Police cell phone searches in vehicles blocked, 9th Circuit rules

Cell phones are not containers that law enforcement officers can search when found in vehicles, a 9th Circuit panel held Thursday in overturning a ruling by U.S. District Judge Marilyn L. Huff of San Diego.

Alternative Dispute Resolution Retired judge brings wit, wisdom to mediation work

Biography Not Available.

[Top ↑](#)

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Corporate

Cal Water Promotes associate GC

Current Associate Corporate Counsel and Corporate Secretary Lynne P. McGhee will become California Water Service Group's first vice president and general counsel Jan. 1.

Ethics/Professional Responsibility

Electronic discovery: 2014 year in review

Electronic discovery received much attention in 2014 from the courts, agencies and bar associations across the country. By **Viggo**

Boserup

Environmental

Law shouldn't be encouraging sprawl

Most people assume that an environmental law is meant to improve the environment. But in the case of one aspect of the California Environmental Quality Act the opposite outcome has too often been true. By **Ethan Elkind**

California Supreme Court

Vacancies, changed priorities lead to fewer state Supreme Court opinions

The state Supreme Court is issuing a lot fewer decisions than a decade ago, with the decline driven by a drop in civil opinions, a series of retirements, and a cultural shift that places lower emphasis on issuing a high number of rulings.

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