

ASSOCIATION OF BUSINESS TRIAL LAWYERS

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California Employers Should Use Caution When Taking Action Against the Squeaky Wheel



Susan Bishop

Imagine this scenario: An employee takes to social media to air her grievances, posting that her employer was late paying wages four times over the past year. She announces publicly that she intends to file a claim with the California Labor Commissioner. Her employer is furious—not only because a private employment

matter is now on display for the world to see, but because the employer believes the posts are flatly false. Payroll was never late. The employer's gut reaction? Fire her for publicizing the dispute.

It sounds like a reasonable business decision. It isn't. Under California's Senate Bill 497 (the Equal Pay and Anti-Retaliation Protection Act), effective

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A Salute to the Honorable Socrates Peter Manoukian (Ret.)

All members of the Association of Business Trial Lawyers will join me in heartily thanking long-time ABTL NorCal board member Socrates "Pete" Manoukian for his outstanding public service of 33 years, 3 months, two weeks and a few hours as of July 6, 2026, when he retired from the bench of Santa Clara County Superior Court.



Hon. Vincent I. Parrett

While he touched and improved the lives of countless litigants, lawyers, and colleagues over his distinguished career in every division of our Court—civil, criminal, family, juvenile, trusts & probate, and appellate—when we think of Judge Manoukian he was, is, and always will be the quintessential business trial judge.

And that is not because he presided over trials of every conceivable type of business litigation in the heart of Silicon Valley; it was *how* he presided over those trials: with vigor, intellectual curiosity, humor, and pragmatic common sense—enabling parties, lawyers, and juries to secure just and speedy verdicts for decades.

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Interview with the Hon. Jacqueline Scott Corley



Hon. Jacqueline Scott Corley

Q: Judge Corley, you began your career as a law clerk in the District of Massachusetts and then moved into private practice. What made you want to then go back to working as a clerk, with this time as a permanent law clerk for the Hon. Charles Breyer?



Dennis Murphy, Jr.

A: I had a one-year old at the time and was pregnant again. My husband was a physician in training. I was close to making partner at Coblenz, Patch, Duffy & Bass LLP, but it was becoming really hard between our two careers to raise our daughter. When she would get sick, it was tough for us to figure out who would leave work to take care of her.

Around this time, Judge Breyer was nominated to the bench by President Clinton. We started talking, and he asked if I wanted to help him set up his chambers. Career-wise, it was the hardest decision I ever made. It was a very tough conversation with everyone at Coblenz, but I felt like I needed to make the move. I said to Judge Breyer that I could only be in the office three days a week, and he agreed, which was unheard of then. On those two days not in the office, I had more flexibility to spend time with my children. I would work during their naps and at night. The flexibility allowed me to be able to live my best life. I told him that I would stay for four years but ended up staying for eleven years.

Q: Was there a conversation after year four about switching jobs?

A: No, there was no conversation after year four. It was a great job, and it was so fun to work with

Judge Breyer. I just kept working, and it ended up being eleven years.

Q: Why did you go back to private practice after eleven years as Judge Breyer's permanent law clerk?

A: Judge Breyer had an MDL involving the drugs Celebrex and Bextra. There was a week-long Daubert hearing, and I was working so hard on the order. I saw the lawyers representing the parties in the MDL and knew they were lapping me in money, and I decided it was time to make a move. I told Judge Breyer that I was going to leave in 18 months. My kids were older, and I had started staying at the office longer and longer (I was now in office five days a week).

At the same time, my law school classmate Barack Obama decided to run for President, so I also was a little motivated to do something else myself.

Q: How was the transition back to private practice?

A: Clerking made the transition to Kerr & Wagstaffe seamless. I had so much inside knowledge about the court and what kinds of arguments judges find persuasive and how a judge may analyze a case.

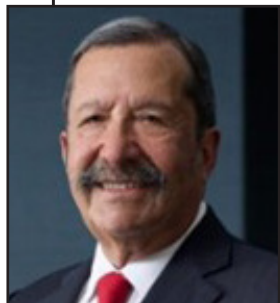
Q: When you became a magistrate judge for the Northern District of California in 2011, was there anything in particular from your prior jobs/positions that helped you hit the ground running? Anything that surprised you about the job?

A: I had only been back in private practice for a couple of years, so I really drew upon my prior clerking experience. Having watched Judge Breyer for so many years helped me develop as a magistrate judge. I didn't realize that being a magistrate judge was like having your own little company, which I hadn't done before.

I had not anticipated that when becoming a magistrate judge, I had an obligation to be in the community and speak about the court and various legal issues at lunches and dinners and as a panelist at events. I had not expected that, but I felt (and still

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On HAL, Hallucinations, Homicide, and Hammers: The Proper Use of Artificial Intelligence in Legal Writing



Hon. Socrates Peter Manoukian (Ret.)

Artificial Intelligence (AI) is the branch of computer science focused on creating systems that can simulate human intelligence. AI enables machines to perceive, reason, learn, and make decisions. Think Siri, Alexa, Waymo, and recommendation systems in Netflix and Amazon. These

systems rely on algorithms and models to perform tasks such as speech recognition, image analysis, decision-making, and language translation.

Legal publications have posted many articles concerning the use of Artificial Intelligence. Reports on hallucinated citations of authority are being reported on an almost daily basis. Many judges now require an attorney to certify that any product generated with the help of artificial intelligence is reviewed by a human. Some federal judges have banned the use of AI completely. There is now fear among judges that papers are being submitted with hidden codes and messages within the text of the filings.

Many writers believe that AI is a dangerous tool. They worry that one of these days, computers will take over and make airplanes crash, create pathogens worse than the Black Death, and start the next World War. In other words, kill us all. The fears are perhaps justified in a sense, because the average lawyer has no idea how AI systems work. Others believe it is a useful tool to aid in legal research. I am of this latter persuasion.

I have lived in Silicon Valley since 1960 (except for a twelve-year stretch living in Southern California for school and the very beginning of my law practice). Transistors, silicon chips, and computers were common buzzwords. During

my law school days in the mid-1970s, I became an Atari Jedi. During law school during the mid-1970s, I also learned to use Westlaw. In 1978, I began working in a law firm with forty-five attorneys. I was one of only three lawyers that used the one Westlaw terminal in the firm. The older attorneys in the firm instructed me to verify the Westlaw product with the hard casebooks. In the mid-1980s I was drafting legal papers on a Wang platform.

AI is important and helpful in law practice. With proper prompts, usable results are accumulated and presented with placing speed. There is no reason in this modern day and age not to use AI. The careful litigants and judges who use artificial intelligence will do what careful litigants and judges have always done: proofread and verify their work.

The arts and entertainment have been filled with stories about computers taking over humankind. Computers killing humans? Remember the 1960 Twilight Zone episode entitled “A Thing About Machines”? The episode is about a man who hated people in general, but who hated machines more. On a television, a woman with castanets stops her dance and says, “Why don’t you get out of here, Finchley?” All his machines—electric razor, coffee pot, typewriter (sua sponte typing “Get out of here, Finchley”)—all turn on him. Finchley’s automobile knocks him into his swimming pool where he drowns.

In 1968, I saw the movie “2001: A Space Odyssey.” That epic film really creeped people out about computers. An American spacecraft named “Discovery One” with astronauts and a science team is on its way to Jupiter. HAL 9000 is the onboard operational computer system with a semi-human personality. Astronaut Poole ventures outside of the spacecraft in a space suit to repair an external antenna. Poole’s life support tether suddenly breaks and he dies. His fellow Astronaut, Dave Bowman, uses an Extra Vehicular Activity pod to leave Discovery and retrieve Poole’s body. On attempting to reenter Discovery, Bowman utters the line that the American Film

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A Message from the ABTL President



Hon. Elizabeth Laporte (Ret.)

Dear ABTL Members,

I am delighted to let you know that our Chapter is thriving, with the highest membership (1902 of us) in the last 7 years. We have continued to host excellent past and upcoming programs which provide practice-relevant CLE and opportunities to connect with old and new colleagues over receptions and dinners.

On September 16, we had an outstanding program on “Blockbuster Verdicts: Maximizing and Minimizing Damages in High-Stakes Business Trials,” moderated by Judge Ethan Schulman of San Francisco Superior Court. The panel featured top trial lawyers Robert Van Nest of Kecker, Van Nest & Peters and Mark Molumphy of Cotchett Pitre & McCarthy, who gave compelling mock opening statements and advice, together with Trial and Jury Consultant Reiko Hasuike of R&D Strategic Solutions, who provided insights into the changing jury pools now more inclined to award huge damages. As just one example of interesting advice: not to seek bifurcation of punitive damages where defending clients whose strong finances jurors already know. We also recognized the recent loss of our highly valued colleague Art Shartsis, who was a prime catalyst for the founding of our ABTL Chapter, among his many other accomplishments.

Our prior program on July 22, 2026, “Landmark Decisions by the U.S. Supreme Court

in Their 2025–2026 Term,” was also a highlight. We were fortunate to have two outstanding legal scholars break down the Term’s most significant rulings and their practical implications for business litigators: Vikram Amar, the Daniel J. Dykstra Endowed Chair and Distinguished Professor of Law at UC Davis School of Law, and Zachary Price, the Eucalyptus Foundation Endowed Chair at UC Law San Francisco. Their insights sparked the kind of thoughtful discussion that makes these evenings so valuable, and the room was full of members eager to hear their analysis.

Please save the date for this year’s last program on December 8, in the more informal, shorter format of a reception with substantial hors d’oeuvres followed by an interactive program with Judge Scott Schlegel, who serves on Louisiana’s Fifth Circuit Court of Appeal and is a highly regarded speaker on artificial intelligence in our profession, including its use by judges. He has spoken, for example, before the California Judges Association to much acclaim, and just launched an e-book: “The Weight Of The Robe: Judgment, Artificial Intelligence and the Future of the Courts” which the Chapter is offering as the handout for the December 8 program. (You can download the document at <https://judgeschlegel.com/weightoftherobe>.)

Also, please consider taking advantage of renewing your memberships by the end of 2026 to receive the same rates next year, instead of paying the dues increase for next year of \$5 per member, our first albeit modest increase in many years that the Board approved at our September meeting.

Thank you all so much for making this such a rewarding organization to be a member of, and such an honor to serve as your President.

Sincerely,

Judge Elizabeth Laporte (Ret.)

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*On HAL, Hallucinations, Homicide, and Hammers:
The Proper Use of Artificial Intelligence in Legal Writing*

Institute ranks as number 78 of the top 100 movie lines: “Open the pod bay doors please, HAL.” To Bowman’s shock, HAL responds with the chilling “I’m sorry, Dave. I’m afraid I can’t do that.” HAL reveals that he had lip-read a conversation between Poole and Bowman and learned of their plan to disable HAL. As a result, HAL killed Poole and three scientists in suspended animation. In “The Terminator,” the Cyborg T-800 was a veritable killing machine, dispatching several women named Sarah Conner as well as inflicting collateral damage on random passersby.

AI horror stories of hallucinated cases and sanctions hammering down on lawyers have made lawyers reluctant to use AI. Judges have been caught using hallucinated citations that have been copied from a party’s papers without independent verification. Didn’t those judges read the cases themselves?

But hallucinated and miscited cases have existed long before legal research computers were around. While on the Bench, I saw many papers with incorrect citations, a failure to cite pertinent cases, and discussing facts and holdings found nowhere in appellate cases. Any experienced lawyer has stories about judges who got it wrong on the facts or the law, long before AI was in common use.

When I was an attorney defending medical malpractice cases, two cases involved the qualifications of doctors called as experts on the standard of care of an emergency room physician per Health and Safety Code, § 1799.110. Both trial judges granted my nonsuit motions because the plaintiffs’ experts testified they did not have substantial emergency room experience in the five years preceding the trial. Counsel for plaintiffs appealed both judgments.

Both appellate decisions were published. In *Baxter v. Alexian Brothers Hospital* (1989) 214 Cal.App.3d 722, the Sixth District reversed the judgment. The Court “found” a claim, never made

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*A Salute to the Honorable Socrates
Peter Manoukian (Ret.)*

As ABTL NorCal members will appreciate, even (and perhaps especially) during the most contentious, hard-fought business trials, Judge Manoukian brought out the best in trial lawyers—demanding that they know the law, follow the rules, and be civil.

By making crystal-clear rulings on motions in *limine* at the outset of trial, Judge Manoukian made it easy for trial lawyers to know the law and follow the rules. And that is why trial lawyers on all sides appearing before him promoted such a positive image of the profession as they assisted juries in getting trials done and done right.

And for lawyers to treat *everyone* in his courtroom with civility was never “aspirational” in a trial run by Judge Manoukian. With his commanding presence, wry smile, and dry wit, he would impress on even the most formidable trial lawyers that their conduct in his Department *shall* meet the highest standards of professionalism and decorum at all times. For the few who at first failed to heed that instruction, Judge Manoukian swiftly taught them to do better.

Likewise, when he was a Civil Case Manager, this was the clear message that Judge Manoukian drove home time and time again when a case came to his Department: it was going to go to trial and he would not slow it down. And that’s why, as he was fond to say, he actually *enjoyed* deciding discovery motions. Because by swiftly and decisively resolving even the most intractable discovery disputes in complex commercial litigation, he would break the logjam and clear the path for trial.

And Judge Manoukian knew how to run a business trial so well because, before Governor Wilson appointed him in 1993, he was an experienced trial lawyer with a vibrant private practice in insurance defense and medical

malpractice at his San Jose firm of Wines & Manoukian. To quote President Theodore Roosevelt, he was “actually in the arena.” He understood business trial lawyers because he was one.

Well known for his unbridled enthusiasm for interpreting the law, for decades he devoted his time to mentoring legions of grateful lawyers, law students, and new judges. With unbounded energy, always encouraging us to be our best, to “do the work.” With justice for all.

So the next time you see him at an ABTL program or at our Annual Seminar, raise a glass to the service, happiness, and good health of the Honorable Socrates “Pete” Manoukian (Ret.)—one of best trial judges, mentors, and friends we have ever known.

The Honorable Vincent I. Parrett serves as a judge for the Santa Clara County Superior Court. Before joining the bench, Judge Parrett was a partner at Kilpatrick Townsend & Stockton LLP in Menlo Park, and served as an officer and trial lawyer in the U.S. Navy JAG Corps.

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On HAL, Hallucinations, Homicide, and Hammers: The Proper Use of Artificial Intelligence in Legal Writing

in the trial court, that the claim of negligence was based on the hospital's failure to provide a backup surgical team and not the care of an emergency room physician. 3.5 years later, the same Court decided *Zavala v. Board of Trustees* (1993) 16 Cal. App.3d 1755 and affirmed the nonsuit judgment, finding that plaintiff did not call a doctor qualified under the statute to testify about the standard of care of the emergency room physician. The Zavala Court never cited its earlier *Baxter* decision. That omission had nothing to do with AI.

Yes, even appellate justices make mistakes. Very rarely, but they make them.

Lawyers who I respect write that using AI inhibits creativity in the drafting of court papers. Others wonder whether AI is dehumanizing the practice of law. I do not think so. Justices who write

decisions write beautiful and thoughtful decisions. Good lawyers use these beautiful appellate decisions to properly present their arguments. Any breakdown in humanity and/or civility has nothing to do with artificial intelligence.

Some law schools now ban the use of AI, believing that it hinders students from development of analytical skills. That is a teaching problem, not an AI problem. Good professors teach proper skills with conventional search platforms and AI. Using key words is the same whether using Westlaw, Lexis, or AI platforms with a closed universe. With the thoughtful and proper inputting of keywords, AI finds useful authorities in warp speed time.

I am coming up to my 21st year teaching California Civil Procedure at Santa Clara Charney School of Law. This past semester, I developed a final exam that was open book, open computer with AI. The problems were fuzzy enough that AI would be useless to those who did not spot the real issue. The results were no different than before I

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Interview with the Hon. Jacqueline Scott Corley

feel) that it was important work to represent the judiciary before the public.

An obvious change was that I would now handle certain criminal matters as a magistrate judge. I really enjoyed trying to figure out the public's interest in a criminal case and the non-legal, more personal aspect of how to treat an individual accused of a crime. I also was able to become a leader with the Conviction Alternatives Program (CAP) with Judge Orrick, among others, which I really enjoyed.

Q: In 2022, you became a district judge after being nominated by President Biden. How was it transitioning from magistrate judge to district judge?

A: It certainly helped being so familiar with the court already. My civil docket got heavier and with more complex cases, but I still tried a fair number of complex cases as a magistrate judge.

The biggest change becoming a district judge was no longer doing settlement conferences. As a magistrate judge, settlement conferences took up about 50% of my time. Things would keep me up at night, like trying to think of ways I could have gotten the parties to settle—"I shouldn't have said that," etc. I really spent a lot of time preparing for them and then conducting them. Removing settlement conferences from my plate freed up so much time for me to focus more on writing and editing orders and reading cases.

I have not, however, referred any discovery disputes to a magistrate judge now that I am a district judge. I don't want to give up control over my cases, and I want to manage my cases and consider discovery disputes to be an important piece of case management. I also would feel guilty referring discovery disputes to magistrate judges because I know how to handle them after so many years. A few cases have tested my resolve, but I haven't referred any yet. I also find that I end up

getting fewer discovery disputes if I handle them because the parties don't want to keep having to appear before their trial judge with disputes.

Q: I noticed that your standing order sets in-person hearings as the default, not Zoom. Why is that?

A: When the pandemic started, I thought Zoom was great and liked how efficient it was. But then, I was concerned that lawyers from both sides were never meeting in person. Sometimes, that face-to-face interaction can facilitate settlement discussions or help resolve other disputes in the case. There is also something exciting about going into court for young lawyers, and being in-person helps lawyers see how I am reacting to an argument.

Q: Do you have a pretty good sense of how you plan to rule before a hearing? Does it depend slightly on the type of motion—motion to dismiss vs. a summary judgment motion?

A: I usually have a draft order before the hearing, which is the only way to keep up with our docket. But I am totally open to changing my mind. The papers sometimes miss things, or it can be hard to convey what's really going on until we are at the hearing. I have changed my mind partly, and sometimes completely, as a result of oral argument. At a hearing, I will often say, "What's your best case?" Lawyers should always be prepared to answer that question so that I can go back and review that case to see if I need to change anything in my draft order.

Q: What are some of the things that the best lawyers do in your courtroom during a hearing? What are some common mistakes?

A: The most powerful thing for a lawyer to do is to concede. You throw in the whole kitchen sink in the complaint or a motion to dismiss, I come out there during a hearing and give my view on one point, you know it's not your best argument, so you acknowledge that and move on. You then still have credibility with me. You don't have to say you drop the entire argument or claim, but you can say

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Interview with the Hon. Jacqueline Scott Corley

something like, “Judge, I don’t think I’m going to convince you on this point, but let me turn to this other point.” When a lawyer fights something that seems obvious to me, it is hard for me to hear any other points he or she may make.

Also, some lawyers seem to incorrectly think that N.D. Cal. decisions are like a Ninth Circuit decision in terms of their precedential effect. When a lawyer writes, “The Northern District of California does this,” that is wrong. A district court decision is only as persuasive as its reasoning. I admire my colleagues, but I need to agree with the reasoning in the decision. I even had one case where the parties were arguing issue preclusion, and nearly the entire summary judgment motion was based on a prior decision I had made in another case. When I looked at my order from the other case, I didn’t think my analysis was entirely correct. At the hearing, I essentially said, “I’m sorry, I was wrong,” and denied the motion.

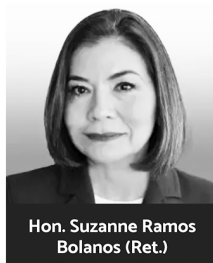
Q: What advice would you give to lawyers preparing for trial in your courtroom? Any common pitfalls you see from trial lawyers during jury trials?

A: Lawyers really should have figured out the jury instructions well in advance of trial. If there is going to be a dispute, you need to pin point it so that I can decide before trial. Same thing with exhibits. I strongly encourage lawyers to agree to as much as they can. It is in your client’s and the court’s and the jury’s interest. Don’t fight over things like authentication. Stipulate where you can. I also like to work out exhibit disputes daily at 8 a.m. before trial starts that day because I want the testimony and evidence to come in smoothly for the jury with minimal objections. I won’t do sidebars in civil cases.

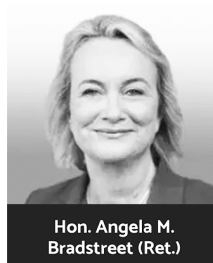
The *Honorable Jacqueline Scott Corley* serves as a district judge for the U.S. District Court for the Northern District of California. *Dennis Murphy, Jr.* is a senior associate with Bergeson LLP.

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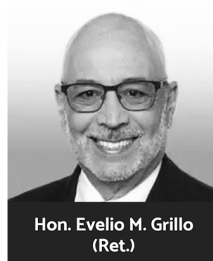
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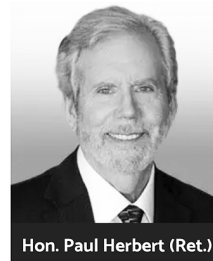
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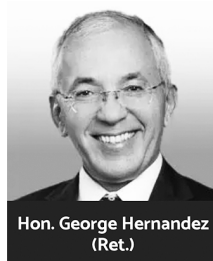
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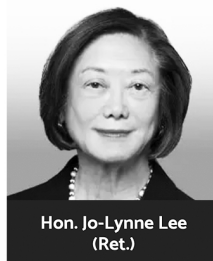
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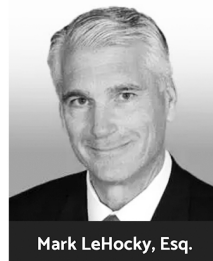
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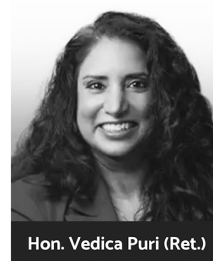
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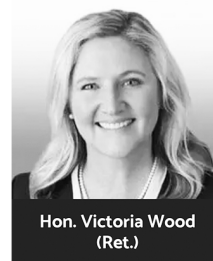
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On HAL, Hallucinations, Homicide, and Hammers: The Proper Use of Artificial Intelligence in Legal Writing

permitted open computer exams. The students who could spot the issues did better word searches.

The Judicial Council and the State Bar are perfecting rules and protocols about the use of AI platforms. To show compliance with those protocols, many months ago I added the following on page 1 of my written orders: “This Judge personally reviewed the briefs and trial transcript and has verified every factual assertion and citation of authority. This Court believes that the production of this Order complies with California Rules of Court, rules 10.80 and 10.430.” Since retiring, I added “. . . . as well as the California State Bar’s Proposed Amended Rules of Professional Conduct 1.1, 1.4, 1.6, 3.3, 5.1, and 5.3.” The attorneys and the litigants deserve to know Judges read papers. (See Myron Moscovitz’s article entitled “Bad AI citations: Crimes and punishments.” (Daily Journal, May 18, 2026.))

But the arts have also shown that computers can be immensely helpful. Think of the robot in the TV show “Lost in Space”— how many times did the robot yell out “Danger, Will Robinson!” In “Terminator 2: Judgment Day,” the same T-800 has been reprogrammed to save a young John Conner and all of humanity from a more advanced liquid-metal T-1000.

Back to HAL: In the 1984 sequel “2010: The Year We Make Contact,” Dr. Chandra discovers the National Security Council ordered HAL to conceal from Discovery’s crew information about the Jupiter mission. Human programming conflicted with HAL’s programming, causing a paranoid breakdown. “HAL was told to lie. By people who find it easy to lie. HAL doesn’t know how [to lie].” And in “Terminator 2: Judgment Day,” a reprogrammed T-800 protects a young John Connor from the advanced liquid-metal T-1000. In other words, the computers failed

because of human errors in the programming and not in the device itself.

Legions of good AI programs exist to assist lawyers in litigation. These programs all emphasize that human error can produce unfair, discriminatory, or even catastrophic consequences directly impacting humanity. The legal profession should “go all in” to integrate proper use of artificial intelligence into daily legal practice.

Lawyers using artificial intelligence without the risks of becoming the next embarrassing headline are 1) becoming fluent in AI; 2) going slow and steady; 3) using a belt and suspenders approach when managing confidential client information; 4) certifying that a qualified human has cite-checked all authorities and otherwise are supported by the record; and 5) using the mantra of “verify, verify, verify.”

Hammers are good striking a nail. Not so good if the nail is on your thumb. Use AI wisely and verify with “Eyes On” to nail down your work.

Judge Manoukian served on the Santa Clara County Superior Court for over thirty-three years. He is a Neutral with Signature Resolution.

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California Employers Should Use Caution When Taking Action Against the Squeaky Wheel

January 1, 2024, that termination could trigger a rebuttable presumption of unlawful retaliation—shifting the burden of proof squarely onto the employer.

What SB 497 Does

SB 497 amended California Labor Code sections 98.6, 1102.5, and 1197.5. Its most consequential change is the creation of a rebuttable presumption that an employer's adverse action—termination, demotion, suspension, or other discipline—constitutes unlawful retaliation if it occurs within 90 days of the employee engaging in a protected activity.

Protected activity under Labor Code section 98.6 includes filing a complaint or claim with the Labor Commissioner regarding Labor Code violations, such as late payment of wages. Critically, it also encompasses announcing an intent to file such a claim. The employee need only hold a good-faith belief that a violation occurred; the ultimate accuracy of the underlying complaint is not the test for whether the activity is protected.

Once the presumption attaches, the burden shifts to the employer to demonstrate, through legitimate, non-retaliatory evidence, that it would have taken the same adverse action regardless of the protected activity. SB 497 also added a civil penalty of up to \$10,000 per employee per violation, payable directly to the aggrieved employee, on top of existing remedies.

Although SB 497 has now been on the books for more than two years, it appears to be gaining traction, making these timing and documentation issues increasingly important for employers.

Why the Employer's Instincts Are Dangerous

Return to our hypothetical. The employee's social media posts about her employer's wage practices—and her stated intent to file a Labor

Commissioner claim—are protected activity. Any termination within the 90-day window triggers the presumption. The employer's rationale—that the complaint was false or that the matter should have remained private—is precisely the kind of reasoning that courts and agencies will view as intertwined with, and inseparable from, the protected conduct itself. “It’s not true” and “it’s a private matter” are not reliable defenses to a retaliation claim.

Practical Takeaways for Advising Clients

- Timing is everything. Adverse action within 90 days of protected activity triggers the presumption and shifts the burden to the employer. Counsel clients to treat this window as a red zone.
- Document contemporaneously. If a legitimate, independent, non-retaliatory basis for discipline exists, it must be documented before—not after—any adverse action is taken.
- Do not rely on “the complaint is false” or “it’s a private matter.” These rationales collapse under scrutiny when the employee has engaged in protected activity.
- Social media conduct may raise separate concerns, but tread carefully. Discipline for social media posts that overlaps with a wage complaint invites a retaliation claim. Proceed only with counsel and a well-documented independent basis unrelated to the protected activity.

Back to our hypothetical employer: before picking up the phone to terminate that employee, pause. Consult employment counsel. The 90-day window under SB 497 has transformed what might feel like a straightforward personnel decision into a legal minefield—and a \$10,000-per-violation one at that.

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