



LGC and The Association of Corporate Counsel's Value Challenge: Mid-size Firms Like LGC Meet The Challenge



*Teresa M. Beck,
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Even before the economic downturn, in-house counsel for many corporations, large and small, for profit and not for profit, began questioning rising legal costs which were way out of proportion with corporate profit. One study by the California Bar Journal found that over the past ten years, non-legal costs increased by 20%, yet large law firm fees increased by 75%!¹ Frustrated and baffled, in-house counsel began a campaign – the Association of Corporate Counsel's Value Challenge – to open a dialogue with outside counsel about how law firms can reduce costs and still maintain strong profitability. The Value Challenge has many components including a Value Index in which law firms (typically only large law firms to date) are rated by their clients.² Interestingly, the Value Challenge delves into the intricacies of law firm management in the quest for value. At LGC, we believe the perception of lack of value is really a big firm problem. Mid-size firms have been and are being managed in such a way to consistently provide value, without making our clients feel like they need to manage the details of our practices.

According to the Value Challenge, law firms provide value when they are incentivized to improve efficiencies and outcomes, staff files with junior level associates who provide value, have low turnover of associates, have solid training programs and mentoring for associates to encourage longevity and effectiveness of junior associates, and are open to alternative fee arrangements, among many other factors. The Value Challenge even goes so far as to demand that law firms allow flex time to associates in order to promote longevity. Those seeking value, however, need look no further than to mid-size firms like LGC because mid-size firms do not suffer from the big firm issues that appear to rob big firms of value. **Continued on pg. 3**

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Welcome to LGC's Summer Associates

LGC is proud to welcome our two newest summer associates, Jennifer Reyes and David Park.

Jennifer Reyes is entering her third year at the University of San Diego School of Law. She received undergraduate degrees in Political Science and Economics from Cal Poly, San Luis Obispo in 2007. Prior to law school, Jennifer worked at a small insurance defense litigation firm in her hometown, Thousand Oaks, California, as a legal assistant. Jennifer has always wanted to live in San Diego and now that she is here, she never wants to leave. Jennifer enjoys running, cooking and spending time with friends and family. She is getting married in August to her fiancé, Brian, who she met in college.



Jennifer Reyes

David Park is also entering his third year at the University of San Diego School of Law and is originally from San Jose, California. He received undergraduate degrees in Psychology and Behavioral Science from San Jose State University in 2006. David recently won the National Association of Chapter 13 Trustees writing competition for his article on Section 1322 of the Bankruptcy Code regarding modification of loans secured solely by the debtor's principal residence. He enjoys cycling, golf and tennis, and loves the San Diego weather.



David Park

Jennifer and David are participating in LGC's summer associate program which LGC utilizes to seek out the best and brightest of top law school talent every year. Please join us in welcoming our two newest summer associates!

LGC Wins Important Motion for Summary Judgment

LGC congratulates Partner Ted Cercos and Associate Jason Julius for their recent victory on a Motion for Summary Judgment (“MSJ”) in a construction site personal injury case.

The Facts: LGC represented a nationwide contractor who contracted to install equipment at postal collection centers. LGC’s client hired the Plaintiff in the lawsuit from a temporary staffing agency to perform temporary electrician work. The Plaintiff was injured three weeks into the job when his ankle was struck by the wheel of a man-lift, injuring his Achilles tendon. Pursuant to an agreement between LGC’s client and the temporary staffing agency, the Plaintiff was covered by the temporary staffing agency’s workers compensation (“WC”) policy. The Plaintiff received WC benefits through the temporary staffing agency but pursued LGC’s client for third party negligence. In addition, the Plaintiff had relinquished, in writing, all rights except for the right to WC benefits with the temporary staffing agency in the event he was injured while working.

The MSJ: LGC filed an MSJ, arguing LGC’s client was a “special” employer (an employer who does not directly hire the employee but still benefits from the work), because LGC’s client exercised supervision/control over the Plaintiff thereby establishing a “special” employee/ employer relationship which barred Plaintiff’s claims pursuant to the Exclusive Remedy Rule under Cal. Lab. Code § 3602 (Section 3602 provides the exclusive remedy for on the job injuries against the employer is WC benefits). LGC also argued that the Plaintiff’s written relinquishment of the right to make a claim for injuries sustained on the job barred the claims. [Continued on pg. 3](#)

Associate Spotlight: James Barrington



James Barrington, originally from St. Louis, Missouri, has been with LGC since 2007. He graduated from the University of Missouri School of Law. Before attending law school, James attended Westminster College, in Fulton, Missouri, graduating with a degree in Political Science. James attended Westminster on a soccer scholarship and started every game all four years for the

NCAA Division 3 Blue Jays. James’ practice focuses primarily on defending subcontractors in construction defect actions as well as defending corporations and businesses in general liability actions. In his free time, James enjoys disc golf, photography, pitching a television sitcom he developed with a friend, and spending time with his wife, Jennifer and two active boys, Jack (7) and Hank (4).

QUOTE OF THE MONTH

The whole purpose of education is to turn mirrors into windows.

- Sydney J. Harris
(from DRI, *The Voice*) July, 2010

We Appreciate Your Referrals

We would like to thank our many clients who continue to refer colleagues, friends, and family to our offices for legal services. We take pride in knowing that you have confidence in our ability to provide legal representation. THANK YOU!

LGC Successfully Arbitrates SB 800 Claim

LGC Partners Mark Collinworth and Jason Specht recently defended a large residential developer in a binding arbitration of claims brought by the owners of 16 homes in El Centro, California under the relatively new standards for construction defect litigation created by SB 800. The case, which had proceeded through the pre-litigation process, was initially brought as a lawsuit in the Imperial County Superior Court. Despite a general inclination of California courts to find arbitration agreements in residential purchase contracts void as adhesive in nature, Mark and Jay were successful in compelling arbitration.

The weeklong arbitration presented many unique issues – not the least of which were the logistical problems created by the massive April 4th earthquake in neighboring Mexicali which occurred the day before the arbitration started, and damage to hotels in El Centro where the arbitration had been scheduled to take place. Also, since the SB 800 statutes remain relatively untouched by published appellate decisions, the parties had very little guidance in predicting the outcome of the matter. Both sides offered their own expert interpretation of the construction standards in Civil Code Section 896, as well as arguments as to the technical requirements of notice and opportunity to repair. The claimants sought in excess of \$10,000 per home for alleged damages.

The arbitrator, Judge Robert E. May (Ret.), ultimately agreed with nearly all of the arguments presented on behalf of the developer, both as to procedural issues and interpretation of the construction standards, and awarded the claimants only \$1,660 per home. Two of the sixteen claimants in the arbitration received no damages. [Continued on pg. 3](#)

LGC Prevails at Property Damage Trial

LGC Partner Thomas Lincoln and Associate Paul James recently went to trial in an action brought on behalf of two individual homeowners against their homeowners association (“HOA”) for failure of the HOA to fulfill obligations to maintain landscape drainage under the HOA’s CC&Rs. After a six-day jury trial in the Orange County Superior Court, the jury returned a unanimous verdict in favor of LGC’s clients, and awarded damages for property loss, repairs, relocation, and attorney’s fees.



LGC Successful Arbitration (cont. from p. 2)

The arbitration included only 16 of the 91 homes included in the initial lawsuit pursuant to an order of the arbitrator which bifurcated the case. Based upon the award, the parties are now discussing a mediation of the remaining homes, and it is believed the results of the completed arbitration will provide substantial savings to LGC's client should a settlement now be reached.

If you have questions about the application of SB 800, including but not limited to successful handling of the pre-litigation process, please contact either Partner Mark Collinworth or Partner Jason Specht.

MSJ Victory (cont. from p. 2)

With regard to the application of Cal. Lab. Code 3602, LGC's MSJ was supported by the case of *McMarland v. Vorrheis-Trindle Company* (1959) 52 Cal.2d 698, 702, which held: "The fact that either the employee or the employer also occupied another or dual capacity prior to, or at the time of, the employee's industrial injury shall not permit the employee or his or her dependents to bring an action at law for the damages against the employer." Thus, even though the Plaintiff technically had two employers, since the Plaintiff collected WC benefits pursuant to the agreement between LGC's client and the temporary staffing agency, the Plaintiff was barred from pursuing any more monetary compensation through third party legal action.

The Ruling: The San Diego Superior Court judge assigned to the case granted LGC's MSJ on the basis that since the Plaintiff had already collected worker's compensation benefits from the staffing agency, and since the contractor was a "special" employer, any further claim against LGC's client was barred. See Associate Jason Julius with questions.

Congratulations to Madison Beck

Partner Teresa Beck is proud to announce that her daughter, Madison, was named Valedictorian of her 8th grade graduating class at St. John's Episcopal School in Chula Vista, California. Madison is now off to high school at Bonita Vista High School where she has earned positions on the varsity cheer squad and in the school's all girl show choir, Sound Unlimited. Congratulations, Madison!



Wedding Bells Ring for Arizona Associate Ryan Swartz



LGC extends congratulations to Associate Ryan Swartz who married Trucly Pham on July 3, 2010. Ryan and Trucly met in 2005 while they were both at Whittier Law school. Ryan has been with LGC since 2008, and both Ryan and Trucly are licensed to practice in California and Arizona. Trucly works in a small firm and focuses her practice on Estate Planning and Bankruptcy. The couple were married in Anaheim, California and traveled to Jamaica and Barbados for their honeymoon. Congratulations and best wishes to you both!

LGC and the ACC's Value Challenge (cont. from p. 1)

Mid-Size Firms Like LGC Promote Greater Value: At mid-size firms like LGC, our compensation systems and structure allow us to efficiently staff all types of matters, large and small, at rates as much as 50% less than rates charged by large law firms. Mid-size firms are most profitable when matters are staffed by junior associates and supervised by partners since profitability is achieved by volume and not by partner billing. Profitability is also achieved by efficient handling of cases since many mid-size firms are already being rated by their insurance clients on metrics that grade law firms on their ability to achieve good results for low cost, who then reward such results with more work. Further, mid-size firms stay closer to cases with teams who get to know clients at a deeper level, so services are personalized as a standard practice.

Reasonable Rates Provide Value: Mid-size firm rates are already reasonable so clients do not typically feel the need to resort to alternative fee arrangements. Mid-size firms are also structured to be more open to non-traditional fee arrangements although often such arrangements are not necessary because given the difference in rates relative to big firms, value is a given.

Mid-Size Firms Are Innovative: Many mid-size firms began taking action to promote longevity of associates long ago. LGC has long offered flex time and other non-traditional work options to associates, and given our size, we have a unique ability to tailor such options to the individual needs of associates. Additionally, LGC provides individual training of associates, as well as frequent and long-term mentoring.

Let's Talk, Meet and Act: The Value Challenge encourages clients and their lawyers to "Meet, Talk and Act." If you have thoughts about these issues you would like to share, please contact any of the lawyers at LGC and share your views. We are eager to take the Value Challenge and welcome the opportunity to meet with you, talk about how we can serve you better, and take action to meet your needs.

Footnotes:

¹ *The ACC Value Challenge Briefing Packet*, property of the ACC. Copyright 2009. <http://www.acc.com/>
² Curtis, Diane. *Will a bad Economy force more changes in profession?* California BAR Journal, Jan. 2009.



Recently, LGC registered a Service Mark for Balboa Park known as the House of Hospitality

Association. LGC is proud to be associated with Balboa Park Central, a non-profit organization that provides services and events to visitors of Balboa Park, an urban cultural park located in San Diego, California. See Partner Teresa Beck or Associate Susan Minamizono for questions about Service Marks and Trademarks.

You're already dealing with the economy.

Now is the time to make sure you're in compliance with your annual corporate requirements, shareholder meetings, board of directors meetings, and corporate filings before it's too late. Contact attorney Jill Dickerson at 619-233-1150 or jdickerson@lgclawoffice.com today for a consultation.

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