



LGC Founding Partner Tom Lincoln Helps Launch Las Vegas Defense Lawyers

LGC is proud to announce that LGC Founding Partner Tom Lincoln recently led the effort to create Las Vegas, Nevada's first civil defense lawyers' group. Las Vegas Defense Lawyers (LVDL) announced the election of its first Board of Directors at its inaugural meeting on November 3, 2011. Attorneys David Riddle (Farmers Insurance); Nelson Cohen (Bremer, Whyte, Brown & O'Meara); Loren Young (Lincoln, Gustafson & Cercos); Robert Katz (Katz & Associates); Sarah Suter (Ryan, Mercaldo & Worthington); Marlys McGrew (Barron & Pruitt); Eileen Marks (The Marks Law Group, LLP); Shana Weir (Parker, Nelson & Associates); Tamer Botros (Yellow Checker Star Transportation); Megan Dorsey (Koeller, Nebecker, Carlson & Haluck); Anne Padgett (McCormick Barstow); and Ann Richard (Cooksey, Toolen, Gage, Duffy & Woog) were all elected to serve as members of the inaugural Board of Directors at the first meeting, where committee chairs and assignments were also named. According to Tom Lincoln, Las Vegas has needed a group like LVDL for a very long time. Says Tom, "Unlike most major cities, Las Vegas has never had a professional organization for lawyers whose primary practice is defending people and businesses who have been sued, which I believe has given an advantage to plaintiff attorneys who collaborate and work together as a group, and regularly exchange information and experts among themselves."

LVDL is an organization of civil defense attorneys who provide counsel to civil litigants. Among the organization's goals are fostering mutual education and the exchange of ideas with colleagues in the city of Las Vegas and Clark County, providing balanced defense perspectives in matters of defending civil litigants, promoting cooperation and civility among fellow defense counsel, improving the public perception of civil defense attorneys through service to the community, and establishing and maintaining the highest standards of professional conduct. "LVDL will greatly benefit the public by giving a

(Continued on Page 2.)



Thomas J. Lincoln
Partner

Table of Contents

LGC Founding Partner Tom Lincoln Launches Las Vegas Defense Lawyers	1
California Legislature Approves New Laws Affecting Motions for Summary Adjudication and Voir Dire	1
Associate Spotlight: Ryan Petersen.....	2
New Arizona Rules Relating to Court Reporters	2
LGC Wins Near Million Dollar Verdict for Contractor Client.....	2
Las Vegas Defense Lawyers Continued.....	2
LGC Associate Runs in Marine Corps Marathon	3
LGC Partner Appointed to Positions with California Women Lawyers and ABA.....	3
New AZ Rules Continued.....	3
New CA Laws Continued.....	3

California Legislature Approves Important New Laws Affecting Motions for Summary Adjudication and Voir Dire

Governor Brown has signed into law two new laws which may directly and significantly affect how civil cases in California are handled both at the pretrial and trial stages.

New Summary Adjudication Provisions: The first bill (Senate Bill 384) amends the summary judgment statute. Senate Bill 384 adds a new subsection to Code of Civil Procedure 437c, the provision which governs motions for summary judgment and summary adjudication. The new provisions will allow a party to move for summary adjudication of a legal issue, or claim for damages (other than punitive damages) which does not completely dispose of a cause of action, affirmative defense or issue of duty. (Previously, only motions which completely disposed of such issues were allowed.) Such a motion will require the stipulation of all parties whose claims and /or defenses are involved.

(Continued, pg. 3.)



Associate Spotlight: Ryan S. Petersen



Ryan Petersen is an associate in LGC's Las Vegas office. Born in Salt Lake City, Utah, Mr. Petersen received a Bachelor of Science degree from the University of Utah in 2004. He then received his J.D. from Appalachian School of Law in Virginia, in 2007.

Mr. Petersen litigates construction defect and personal injury cases. Ryan's wife, Summer, is also a lawyer who practices in Las Vegas. The couple met in law school. They enjoy snowboarding, hiking, rock climbing, and bowling in their spare time, and of course, spending time with their 10 month old daughter, Skylar. ♦

Arizona Makes Important But Little Known Changes to Rules Regarding Court Reporters Which Affect Lawyers, Insurers, & Clients

The Arizona Supreme Court recently changed the rules governing Arizona court reporters' code of conduct and violations can have a major impact on lawyers, and potentially insurers and clients. Violations of the rules can trigger disciplinary action against court reporters and also give rise to potential sanctions against parties and lawyers with whom the court reporters do business.

The Rules: Under the new rules it is (still) unlawful for any certified reporter to enter into a contract or relationship that requires the reporter to relinquish control of transcript production. Control involves monitoring, overseeing and reviewing the process. (Arizona Code of Judicial Administration § 7-206(J)(1)(g).) It is also unlawful for reporters to relinquish control of the invoicing or billing processes for the transcripts. (Id., subsection (2).) "Control" is defined as having the right to inspect and copy all billing records. The rules specifically prohibit special financial terms offered to some, but not all, parties, attorneys or insurance companies in any litigated matter. (Id., subsection (3).) The rules also prohibit contracts that require reporters to work for fixed prices in other matters or control the use of particular reporting services in other proceedings. (Id., subsection (4).)

The Consequences of Violations: Depositions taken in violation of these rules are subject to being "voided" by the presiding judicial officer in litigated matters, pursuant to ACJA § 7-206(1)(i). The court may also take disciplinary action against the court reporter and lawyers, as well as involved insurers and clients.

Comment by the Arizona Court Reporters Association (ACRA): In a general letter published last year, the ACRA alleged that out of state court reporting services and insurance companies have entered into prohibited agreements to fix discount reporting prices that favor certain litigants over others and obligate Arizona lawyers and litigants to use the services of certain reporting firms who control all aspects of transcript preparation and billing, thus subjecting the local certified reporters to disciplinary action before the regulatory board. (Continued on Page 3.)

LGC WINS \$975,056.68 VERDICT IN CONTRACTOR BONDED STOP NOTICE TRIAL

LGC is proud to report that LGC Partner Ted Cercos and LGC CA Associate Paul James successfully tried a bonded stop notice action on behalf of long time LGC client Brady Company/San Diego, Inc. The case arose out of a failed condominium project known as Mi Arbolito in San Diego, California. Just prior to the completion of the project, the owner defaulted on the construction loan. Due to the recent real estate market collapse, the project was left with little or no equity and so the mechanic's liens filed by numerous contractors were worthless.

Brady Company and three other subcontractors served bonded stop notices on the construction lender, Point Center Financial, Inc. After a four day bench trial, Judge William Nevitt awarded the four contractors a total of \$1,609,801.37. Brady Company's share of this amount was 60.57% based upon a pro-rata allocation determined from each contractor's contractual amount due.

Relying upon Civil Code Section 3166 and the holding in Familian Corp. v. Imperial Bank (1989) 213 Cal.App.3d 681, LGC's client was able to recover all pre-allocated fees, costs and interest paid to the lender prior to the default. A motion for attorneys' fees, costs and pre-judgment interest is pending. ♦

Las Vegas Defense Lawyers, Continued from Page 1

(Continued) voice to the defense perspective, and helping with laws and in the selection of judges and legislators," says Tom. He also explains, "There has been a huge response to our call for such an organization and I am proud to be a part of this new and exciting effort to promote fairness and justice, like similar organizations in other major cities."

All civil defense attorneys within the city of Las Vegas and/or Clark County are encouraged to join and help establish LVDL. Upcoming discussions include electing Board officers, establishing LVDL's organizational structure, developing an online presence via a website and social media, membership requirements and responsibilities, and community outreach.

Las Vegas Defense Lawyers' meetings are held the first Tuesday of the month, at 5:30 p.m., at LGC's new Las Vegas offices, located at 3960 Howard Hughes Parkway, Suite 200, Las Vegas, Nevada, 89169. The next LVDL meeting will be held on Tuesday, February 7, 2012.

For further information or to RSVP to attend the next meeting, please contact Diana Smith at (702) 257-1997 or dsmith@lgclawoffice.com. ♦

LGC CA Associate Darcie Colihan Runs in Marine Corp Marathon in Washington D.C.

On October 30, 2011, LGC CA Associate Darcie A.F. Colihan, (formerly Frounfelter) ran the Marine Corps Marathon in Washington D.C. Proceeds from the marathon go to support the families of those brave soldiers who lost their lives defending our country.

Despite a winter storm sweeping through the greater D.C. area which dropped inches of snow the day before the marathon, Darcie and thousands of others, chilled to the bone, persevered and finished the marathon alongside injured soldiers, with much pride and admiration.

LGC is very proud. Way to go, Darcie!!! ♦

36th MARINE CORPS MARATHON

30 OCTOBER 2011



PRESENTED To
Darcie Frounfelter
4:14:51

You Placed 5696 of 21023 Total Finishers
393 of 1528 of FEMALES 30-34 & 1893 of 8596 in Your Gender
13.1 Mile Split 2:01:29

Daniel J. Choike
DANIEL J. CHOIKE
Colonel, U.S. Marine Corps
Commander
Marine Corps Base, Quantico



Rick Nealis
RICK NEALIS
Race Director
Marine Corps Marathon

LGC Partner Teresa Beck Appointed to Positions with California Women Lawyers and ABA

LGC is pleased to announce that Partner Teresa Beck has been asked to serve on California Women Lawyers' Committee on Advancement of Women. California Women Lawyers is California's only statewide bar association committed to the advancement of women in the profession of law and in society.

Ms. Beck was also appointed to serve as co-chair of the Work-Life Balance Sub-Committee of the American Bar Association's Woman Advocate Committee, which is part of the ABA's Litigation Section. ♦

Important Arizona Rule Changes Regarding Court Reporters (Continued from page 2)

Continued.) **The Future:** The rules have been sharpened amid concern of widespread abuse, and AZ lawyers as well as the insurers and clients who retain them should inquire about the pricing, billing and transcript production policies of the court reporting firms they hire, to protect themselves, their reporters and the integrity of the deposition process itself. Contact LGC Partner Randy Gustafson with questions. ♦

You're already dealing with the economy.
Don't add compliance issues into the mix.

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.

Editor: Teresa Beck, Partner

New CA Laws (Continued from Page 2)

(Continued) The stipulation must be filed with the court and the court must approve the stipulation (i.e., with an order) on the basis that the motion will "further the interests of judicial economy, by reducing the time to be consumed in trial, or significantly increase the ability of the parties to resolve the case by settlement." (Id.)

This amendment presents an opportunity for creative use of summary adjudication. If the plaintiff, for example, seeks to recover speculative damages, and the settlement of the case depends on whether such damages can be recovered, this type of summary adjudication motion is a tool to get a judicial ruling on damages prior to trial. Another example is a case involving a single cause of action based on multiple theories. It can be helpful to get a ruling on a novel theory prior to trial, so that a motion in limine to exclude certain evidence relevant only to the novel theory can be filed. The courts have been clear that motions in limine should not be utilized to resolve legal issues, but this summary adjudication process provides a way to obtain such legal rulings prior to trial and, if the ruling is favorable, then motions to exclude evidence can be tailored around such rulings for more efficient trials.

New Voir Dire Rules: The second bill (Assembly Bill 1403) deals with limitations on voir dire, and amends California Code of Civil Procedure 222.5 to solidify the right to examine prospective jurors in civil trials. The amendment prohibits the trial judge from establishing a blanket time limit for voir dire and reaffirms the value of jury questionnaires. The new provisions also provide that counsel should be given a reasonable time to evaluate completed juror questionnaires. Since some judges impose arbitrary time limits on voir dire, this bill gives counsel authority to gently remind trial judges that while they have the discretion to control voir dire, such discretion must not be exercised in an arbitrary fashion.

Contact LGC Partner Teresa Beck with questions. ♦

New Employment Laws for CA Employers Take Effect in 2012

Several new employment related laws take effect January 1, 2012. One of these laws which is expected to have a significant effect on employers is a new notice requirement about pay issues.

New Notices: AB469 requires employers to provide workers who are not exempt from overtime a notice at the time of hire that includes certain pay details including rate of pay and whether pay is hourly, salary, commission-based or otherwise; any allowances claimed as part of the minimum wage including meal and lodging allowances; the regular payday; and the name, address and phone number of the employer and of the employer's workers' compensation insurer. Most employers already provide this information in pay stubs and workplace posters. Starting next year,, however, employers will have to put all of the information in one notice given to new employees. The California Labor Commissioner will provide a template, but "each notice will be unique to that employee." If any information in the notice changes, the employer generally must notify each nonexempt employee, in writing, within seven calendar days. This law also increases penalties for wage violations and makes additional changes regarding collection of such penalties, including an increase in the statute of limitations.

Contact LGC Associate Susan Minamizono with questions. ♦

LGC Quarterly

Partners

Thomas J. Lincoln*+
Randall D. Gustafson*+◇
Theodore R. Cercos*+
Teresa M. Beck*◇
Nicholas B. Salerno +*
Charles K. Egan*
Loren S. Young+
Shannon Splaine+

* California ◇Arizona +Nevada
‡Florida

Associates

Lisa M. Mersereau*
Jill S. Dickerson*
Christian W. Schmitthenner*
Paul H. James*
Monica J. Yoon*
Anthony P. Gaeta*
Christopher A. Turtzo+‡
Darcie A.F. Colihan*
Jason J. Julius*
Gene E. Royce*◇
James M. Barrington+
Susan S. Minamizono*

Katie C. McCurdy*
Harry J. Rosenthal+
Ryan S. Peterson+
Lucy M. Knutson*
Dana C. Nicholas*
Annalisa N. Grant+*
Jordan T. Nager*
Elyse K. Simmerman*
Andre V. Farinha+
Russell D. Collings+
Dillon G. Coil+
Brandon L. Lewis +
Karissa K. Bleser +

www.lgclawoffice.com

THE LAW OFFICES OF

LINCOLN | GUSTAFSON | CERCOS
LLP.

California Office

225 Broadway, Suite 2000
San Diego, CA 92101
(619) 233-1150

Nevada Office

3960 Howard Hughes Parkway
Suite 200
Las Vegas, NV 89169
(702) 257-1997

Arizona Office

2415 East Camelback Rd, Suit 700
Phoenix, AZ 85016
(602) 606-5735

Florida Office

14105 McCormic Drive
Tampa, FL 33626
(619) 233-1150