



CALIFORNIA NEVADA ARIZONA

LGC Celebrates 25th Anniversary!
A message from founding partner, Tom Lincoln

Lincoln, Gustafson and Cercos proudly celebrated the firm’s 25th anniversary on June 1, 2012. It is hard to imagine a quarter of a century has passed since Randy Gustafson and I founded the firm - Ted Cercos joined us shortly thereafter. In some ways, our firm has not changed at all. In other ways - from 2 attorneys in a tiny office which had a conference room that doubled as a kitchen to 35 lawyers in 3 states – the firm has changed a lot. We were then, and are now, fundamentally focused on protecting our clients, both individuals and businesses, before and after litigation begins. But there has always been a lot more to our firm.

As corny as it may sound today, Randy Gustafson and I actually did start the firm based upon an agreement written on a napkin over lunch. The operating philosophy of the partnership was not included on that napkin though. That philosophy was separately agreed upon by Randy, Ted and I, and thereafter, by every new LGC partner (starting with Teresa Beck in 1997, and followed by Nick Salerno in 1998, Chuck Egan in 2000, Loren Young in 2007, Shannon Splaine in 2008, and Jill Dickerson and Chris Schmitthenner in 2012), before any agreement was signed. Our firm would be different. Our firm would be uncompromising when it came to insuring that profit was never the motivator in performing our professional obligations. We all agreed, and agree today, that if we are honest, fair, work hard for our clients, and make decisions based upon what is best for our clients, we will be successful, and rewards, whatever they may be, will follow.

That formula has served us well. Over the past 25 years, we have had many opportunities to short-cut our values and enjoy quick and significant financial gains. But we have always taken the long view when it comes to our firm. While something may have a big payoff in the short term, if it does not fit within our overall philosophy and enhance our potential for long term clients, we simply are not interested. (Continued on Page 3.)

**Jill Dickerson & Chris Schmitthenner
 Become LGC Partners**

LGC is proud to announce that Jill Dickerson and Chris Schmitthenner have become partners of the firm. Jill Dickerson has been with Lincoln, Gustafson & Cercos since 2001, when she started as a summer law clerk. She received her law degree from the University of San Diego School of Law and has developed a broad practice, including civil litigation focusing on insurance coverage, wrongful death, personal injury, products liability, employer liability, liquor liability, construction liability, and many other areas of litigation.

Mr. Schmitthenner started working for LGC as a summer clerk in May of 2003 and became an associate after graduating from the University of San Diego School of Law in 2004. Mr. Schmitthenner’s practice now focuses mostly on litigation, including personal injury, bad faith, intellectual property, contract disputes, class actions, and commercial litigation. Chris also represents developers and contractors in construction defect and real estate litigation, and advises those clients on contract negotiations and coverage issues. ♦



Tom Lincoln,
 Founding Partner

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Associate Spotlight: Dana Nicholas

Dana Nicholas is an associate in LGC's San Diego office. Born in Chico, California, Ms. Nicholas received a Bachelor of Science degree from the University of California San Diego in 2004. She then received her J.D. from the University of San Diego, School of Law, in 2009. Prior to attending law school, Ms. Nicholas worked in human resources for a San Diego pharmaceutical company.

Ms. Nicholas litigates personal injury cases, employment claims, and construction defect claims. She enjoys spending time traveling, Pilates, and spending time with her extended family, who all live in Southern California. ♦

EEOC Discrimination Charge Data Now Available

The U.S. Equal Employment Opportunity Commission ("EEOC") now makes data regarding discrimination charges brought in each state available publicly on the EEOC website. Below is a summary of how the states LGC practices in fared in 2011 (California, Nevada, and Arizona).

In California, the EEOC's data shows individuals filed 7,166 charges of discrimination in fiscal year 2011 ("FY2011"), which is 7.2% of the total number of U.S. charges filed. The most common charge was retaliation, at 44.6% of all charges brought in California. In comparison, retaliation charges were only 37.3% of all charges brought in the average state.

The second most common type of charge in California was race discrimination, at 33.1%, which was slightly higher than the national average of 30.31%. Disability discrimination charges, the third most reported type of discrimination in the state, came in at 29.4%, which is in line with the national average of 29.9%. Rounding out the top five types of California discrimination charges brought in FY2011 were sex discrimination at 26.9%, and age discrimination at 25.8%.

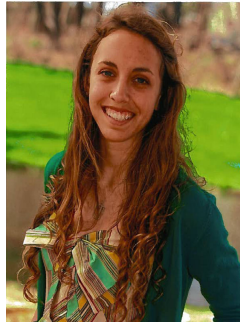
In Nevada, 1,284 total discrimination charges were filed (1.3% of all charges nationwide) in FY2011. Like California, Nevada's most charged form of discrimination was retaliation at 47.4% of all charges. Next, race (30.6%) edged out age (30.5%), followed closely by sex (30.1%) and disability (29.4%).

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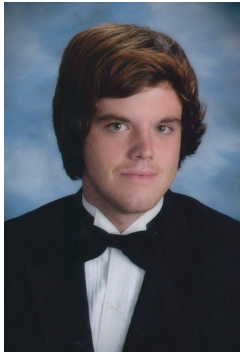
Chinese Pipe – The New “Chinese Drywall?”

The Background: The U.S. annually consumes about \$11.5 billion worth of steel piping, roughly \$3 billion of which is imported from China. Many high-rise residential condominium buildings in San Diego are in litigation involving claims of defective cast iron sanitary waste (plumbing) pipe installed in the buildings. The claims are that Chinese cast iron pipes installed in these buildings were manufactured defectively, resulting in pipe leaks and property damage. Cast iron pipe has been imported from China for decades, and serves as competition to domestically manufactured pipe since it is usually priced lower than domestically manufactured pipe. (Continued on Page 3.)

LGC Announces High School Graduates! Dexie Cercos and Ryan Beck



Dexie Cercos, the daughter of Ted and Jane Cercos, graduated from The Hyde School in Bath, Maine on May 26, 2012. Dexie won the senior class Award for Excellence in English and also was named the Female Athlete of the Year. She was an All League selection in soccer, indoor track and outdoor track. She ended her high school track career by winning the 100H, 300H and triple jump at the Maine Independent School Championships and was named Female Athlete of the Meet. She also placed 2nd, 3rd and 4th in the same three events in the New England Division III Championships. She will be attending Catholic University of America in Washington, D.C. in the fall.



Ryan Beck, the son of LGC Partner Teresa Beck and Teresa's husband, Stephen, graduated from Mater Dei Catholic High School, in Chula Vista, California on June 8, 2012. Ryan devoted much of his high school years to his church's (Church of the Good Shepherd, Bonita) music ministry, where he plays lead guitar in two different worship bands. He was recently applauded by Good Shepherd's rector as "a pillar of Good Shepherd." Ryan will attend Southwestern Community College in the fall where he also hopes to play baseball, and plans to eventually transfer to SDSU. ♦

LGC Congratulates College Graduate Christi Holland!



Christi Holland, age 20, daughter of LGC Nevada Legal Assistant Chrystal Flick who just recently became LGC California's new receptionist, received her Associate of General Studies Degree on May 18, 2012 from the College of Southern Nevada. She is now establishing residency in California so she can attend college in California to obtain her Bachelor's degree. Congratulations, Christi!

LGC Attorneys Maintains AV Rating From Martindale-Hubbell

LGC is proud to announce that the firm maintains its AV rating designation from Martindale-Hubbell. The Martindale-Hubbell ratings are an objective indicator of a lawyer's high ethical standards and professional ability. Attorneys receive Peer Review Ratings™ based on evaluations by other members of the bar and the judiciary in the United States and Canada.

The rating "AV Preeminent" is a significant rating accomplishment, and is considered a testament to the fact that a lawyer's peers rank him or her at the highest level of professional excellence.

At LGC, the following LGC lawyers are rated AV Preeminent: Tom Lincoln, Randy Gustafson, Ted Cercos, Teresa Beck, and Nicholas Salerno. ♦

LGC Senior Associate is Elected to Local Town Council

Attorney Lisa Mersereau was recently elected to the Rancho de los Peñasquitos Town Council, and was also nominated to serve as Secretary. The purpose of the Town Council is to serve, represent, and promote the activities and interests of all Rancho de los Peñasquitos residents as well as neighborhood preservation and enhancement. As a forum for discussion and resolution of community issues, the Town Council communicates ideas, recommendations, and concerns that impact Rancho de los Peñasquitos to residents, other community organizations, private and commercial interests, city, county, and state agencies, and other affected parties as appropriate. Lisa represents District 8, Sunset Hills, and will serve a two year term. ♦

Partner Teresa Beck Joins Board of National Conference of Women's Bar Associations

LGC Partner Teresa Beck has been selected to serve on the board of the National Conference of Women's Bar Associations (NCWBA). The NCWBA is an organization of women's bar associations, for women's bar associations, representing approximately 35,000 women lawyers. NCWBA provides a national forum for exchanging ideas and information vital to organizational growth and success in today's profession. ♦

LGC Celebrates 25th Anniversary (Continued from Page 2)

As we enter the next quarter of a century, LGC reaffirms these values to ourselves and to our clients. LGC reaffirms that there is no grey area when it comes to honesty and there is no easy way to success. We reaffirm that the work by our firm will be performed by aggressive, competent and hard-working attorneys who will never bill for something that is not justified or that does not serve a goal-oriented purpose for our client. And we reaffirm that, in protecting our clients before and after litigation begins, each client will receive the best legal representation possible at a fair price. That's our pledge. That's our firm.

May the next 25 years be as good to LGC, and to our clients, as the first 25 years. ♦

New Law Clerks

Phillip Simpler and Patrick Klingborg are law clerks at LGC's San Diego office. Born in Maryland, Phillip received his undergraduate degree in Economics from the College of Charleston in 2010 before moving across the country. He is now entering his third year at the University of San Diego, School of Law and plans to stay in southern California after law school. In his spare time, Phillip enjoys tennis, beach volleyball, and playing with his dog, Charlie.

Originally from a small town in Northern California, Patrick completed his undergraduate degree in Political Science at UC San Diego in 2008. Patrick is now entering his third year of law school at University of San Diego, School of Law. Before law school, Patrick managed an outreach program for high school students at UC San Diego. ♦

Credits

Editor: Teresa Beck, Partner
Assistant Editor: Patrick Klingborg

EEOC Charge Data (Continued from Page 2)

In Arizona, the EEOC recorded 2,854 discrimination charges which equates to 2.9% of all U.S. charges. The most common forms of discrimination charges brought in Arizona were: (1) retaliation (43.9%); (2) disability (31.1%); (3) sex (30.3%); (4) age (23.7%); and (5) race (21.5%).

Overall, U.S. employees filed nearly 100,000 EEOC charges of discrimination in 2011 making it the highest number of charges in the agency's 46-year history. Complete EEOC data for every state is available at: www1.eeoc.gov/eeoc/statistics/enforcement/charges_by_state.cfm Contact LGC Partner Teresa Beck or LGC Law Clerk Patrick Scott-Klingborg with questions.

Chinese Pipe

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U.S. Safeguards: In the U.S., the Cast Iron Soil Pipe Institute (CISPI) sets the minimum standards for all cast iron soil pipe and fittings (<http://www.cispi.org>). CISPI maintains a comprehensive quality control program for its member foundries. Each plant location receives a comprehensive audit three times a year to help ensure cast iron soil pipe and fittings bearing CISPI's collective trademark meet the appropriate standards. Cast iron pipe sold in the U.S. must be sound and suitable for installation in sanitary, storm drain, waste, and vent piping applications. Pipes and fittings must also be coated with a material that is adherent, not brittle, without a tendency to scale.

The Claims: Allegations in recent lawsuits contend Chinese pipes have leaked, and therefore, are not "sound," and were not properly coated when they were manufactured. In such suits, strict liability and negligence is alleged. Violation of functionality standards can also be an issue. Under strict liability, any entity in the chain of commerce for the import, sale, distribution and installation of the pipes has exposure. The hurdle for Plaintiffs in these cases is that, in most instances, plumbing pipes have been in use for years prior to the litigation and there are many issues which can affect pipe performance, such as maintenance (or lack thereof), homeowner use (or misuse), and whether the pipes were installed properly. Additionally, little may be known about the actual conditions of the Chinese foundry where the pipes were manufactured, sometimes over a decade ago. There still appears to be a stigma among consumers with respect to products imported from China as being inferior in quality to domestically made products.

Defending Chinese Pipe Claims: In defending a case of allegedly defective pipe, experts should consider factors such as whether the pipes were installed properly with adequate slope, whether the pipes were properly coated, whether there are significant inclusions or "porosity" in the pipe which affect performance, and whether maintenance was performed on the pipes. All cast iron has some level of inclusions, but they can arguably have too much porosity. (There currently is no standard for a maximum amount of porosity for cast iron pipe.) In addition, San Diego, like many large cities, has certain plumbing retrofit requirements which require the use of low flow toilets, showers and faucets. Less water running through the system means less flow. Stagnant waste in plumbing systems can cause hydrogen sulfide gas to emit, which further erodes the pipes.

Litigation in San Diego: Interestingly, even through Chinese pipes have been imported for decades and sold for use in thousands of buildings in the U.S., there are relatively few construction defect cases involving allegations of defective Chinese pipe. Several such cases are in Southern California, predominantly in the San Diego area. Contact LGC Senior Associate Lisa Mersereau for information. ♦

LGC Quarterly

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