



Highlights...

- MS Fundraising 1
- Gene Royce Joins LGC 1
- Defense Award in Roofing Case 1
- Caregiver Discrimination 2
- LGC Sports News 2
- Down Syndrome Center 2
- LGC Wins Defense Verdict 2
- LGC Anniversary Recognized 3
- LGC Kids Corner 3
- Associate Spotlight 3
- Credits 3

LGC Observes Seventh Year of MS Fundraising

For 7 years, LGC lawyers, staff, family, business associates, and friends, have rallied together in fundraising efforts for the San Diego MS Society. Those fundraising efforts began in 2001, around the time that LGC Legal Administrator, Sharon Coughlin, was diagnosed with the disease. Initial efforts began with Team Leader, Partner Ted Cercos, encouraging everyone at LGC to reach out to lawyers at other firms, LGC's vendors, and LGC's friends and families to donate to the cause.

Over the years, LGC lawyers and staff have demonstrated their commitment and creativity by putting together silent auctions, happy hours, gift-wrapping fundraisers over the holidays, coffeecake fundraisers, and even bottled water and snack basket fundraisers. LGC even relaxed the dress code at the office to allow for fundraising efforts - jeans can now be worn on Friday, but only for an MS donation! These efforts have paid off! LGC's MS Walk team grew from 30 in 2001 to 140 in 2007. LGC was the top fundraiser in San Diego in 2003, 2004, and 2005. In 2006 and 2007, LGC was the second largest fundraiser in San Diego.



Without the dedication of LGC lawyers and staff, these successes would not have been possible. This year, Ted Cercos has turned leadership of the firm's MS fundraising efforts over to Partner Mark Collinworth. LGC is proud of the efforts of its lawyers and staff and we all look forward to Mark's involvement. LGC is also grateful to the firm clients, colleagues, and friends who have helped raise in excess of \$330,000 since our fundraising efforts began in 2001.



LGC Welcomes Gene Royce

Gene Royce joined Lincoln, Gustafson and Cercos in August of this year as an associate attorney, bringing a wealth of experience with him. A graduate of the University of Arizona School of Law, Gene has worked as a deputy district attorney, as an associate with the firm Thompson & Colgate, and as a partner of Royce, Grimm, Vranjes, McCormick & Graham from 1975 to 2003.

Gene is admitted to practice before all courts of the State of California, the United States District Courts for the Southern and Central Districts of California and the United States Court of Appeals, Ninth Circuit. He is a member of the Arizona Bar and a registered patent attorney.

LGC is proud that Gene has joined the firm and looks forward to the advantages of his knowledge and experience.

LGC Earns Defense Award in San Francisco Roofing Case

In July of this year, Partner Mark Collinworth defended well-known Bay Area roofer, Lawson Roofing Co., in a binding arbitration conducted by the American Arbitration Assoc. The case involved water intrusion from an exterior deck where a hot tub had been installed. Lawson Roofing installed the deck membrane and hot tub surround as part of a multi-million dollar remodel project undertaken by the homeowners. Two years after construction, water intrusion in a guest bedroom immediately below the deck were observed.

At the arbitration, Lawson Roofing argued a showing of fault was required before contractual indemnity was triggered. Lawson Roofing presented evidence that (1) flood testing demonstrated the membrane was properly applied and (2) the general contractor and/or subcontractors penetrated the membrane after Lawson Roofing left the project to allow for installation of plumbing connections to the hot tub.

The arbitrator agreed with each of Lawson Roofing's arguments, and issued a defense award to Lawson Roofing, despite the fact the homeowners were awarded in excess of \$63,000 against the general contractor for the alleged deck leaks. Congratulations to Mark!

Caregiver/Family Responsibilities Discrimination - The Next Trend?

The Equal Employment Opportunity Commission (EEOC) recently issued new guidelines about what could be the next trend in discrimination cases: discrimination against workers with caregiving responsibilities, also referred to as "Family Responsibilities Discrimination." In the new guidelines, issued in May of this year, the EEOC discussed circumstances in which stereotyping or other forms of disparate treatment may violate Title VII. This type of discrimination would undoubtedly also be considered discrimination in states like California, which often provides greater protections to employees than federal law.

According to the EEOC, caregiving responsibility discrimination occurs when an employer's decision affecting a caregiver unlawfully discriminates on the basis of a protected characteristic under Title VII or the ADA. The EEOC's new guidelines focus primarily on pregnant women and mothers, however, the EEOC also stresses that all types of employees may be subject to caregiving responsibility discrimination including unmarried women and fathers, grandparents or other family members who may have caregiving responsibilities.

The guidelines identify six circumstances where discrimination against employees with caregiving responsibilities would be unlawful: 1) sex based disparate treatment of female caregivers, 2) pregnancy discrimination, 3) discrimination against male caregivers, 4) discrimination against women of color, 5) unlawful caregiver stereotyping under the ADA, and 6) hostile work environment.

Continued on Page 3

LGC Sports



Softball:

The LGC softball team finished their summer with an impressive 4-2 record. Associate Tony Gaeta managed a dedicated collection of attorneys, staff and their friends and family to a successful season that was highlighted by new associates Jason Julius's powerful hitting and Darcie Frounfelter's stellar fielding at shortstop.



Basketball:

The LGC basketball team finished the season as runners-up in the "B" Division of the San Diego County Bar Association League this summer. With the court skills of partners Ted Cercos and Mark Collinsworth, associates Tony Gaeta and Jason Julius, and law clerk Patrick Laverty, the team finished 7-4 in the regular season and advanced to the championship game.

LGC Associate Helps Create the Down Syndrome Center

Lincoln, Gustafson & Cercos is proud of the efforts of Senior Associate Lisa Mersereau which have culminated in the creation of the Down Syndrome Center at Rady Children's Hospital-San Diego (RCHSD), set to open in early 2008. Inspired by her 2 year-old son, Will, who has Down syndrome, Lisa helped launch the Center by forming a committee of parents, doctors, nurses, educators, social workers and other business professionals interested in improving the quality of life for all people with Down syndrome. Over the course of the past 16 months, the committee formed a non-profit corporation called DS ACTION, which in turn selected RCHSD to host the Center because of its commitment to enhancing the lives of children.

Down syndrome is the most common genetic cause of cognitive and developmental disabilities, occurring in approximately 1 in 800 births. The Center will benefit children with Down syndrome by offering regularly scheduled evaluations and recommendations by a pediatric clinical geneticist, as well as a developmental specialist, social worker, and occupational, physical, and speech therapists. Many of these medical specialists will be available at each clinic visit, making the treatment process much easier and more comfortable for families. Patients will also receive genetic counseling, supportive case management, and referrals to other specialists and educational programs as needed.

LGC is a proud sponsor of DS ACTION, which is currently fundraising for the Center. For additional information or to make a tax deductible contribution, visit the DS ACTION website at www.dsaction.com. Lisa Mersereau currently serves as the President of DS ACTION and is also mom to Will's twin brother, Jake.



Will Mersereau, 2, inspired his mom to help create a Down syndrome Center in San Diego

LGC Wins Defense Verdict in Nevada Products Liability Trial

This summer, partners Tom Lincoln and Loren Young represented Chaparral Boats, a distinguished boat manufacturer from Georgia, in a strict products liability case. Plaintiffs alleged the boat's gear shifter malfunctioned, causing Plaintiff's injuries. Plaintiff asked the jury for \$2.3 million. After a five-day trial in Las Vegas, the jury entered a defense verdict against Plaintiff and in favor of Chaparral. Congratulations to Chaparral, Tom, and Loren!

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Caregiver/Family Responsibility Discrimination- The Next Trend?

Continued from Page 2

Some examples given by the EEOC of situations in which employers may be at risk are:

-- Employer asks female but not male applicants whether they are married or have young children, or about caregiving responsibilities.

-- Management makes stereotypical or derogatory comments about pregnant workers or working mothers.

-- A female worker without children or other caregiving responsibilities receives more favorable treatment than female caregivers based on stereotypes.

-- Employer denies a male caregiver's request to work part time while granting such opportunities to female workers.

-- Management makes stereotypical assumptions about an employee's ability to perform job duties while caring for someone with a disability

LGC partner Teresa Beck stresses that the new EEOC guidelines do **not** elevate caregivers to a new protected status, nor do the new guidelines have the force and effect of law. The guidelines do not prohibit an employer from evaluating an employee's actual work performance and taking action. Employers should be aware, however, that the guidelines will be used by EEOC investigators and their state agency counterparts as they review and investigate charges. The guidelines signal a broadening of the discrimination statutes and an increased focus on ensuring protection for caregivers.

If you have questions about this article, please contact Teresa Beck at tbeck@lgclawoffice.com or by phone at 619/233.1150.

LGC's 20th Anniversary Recognized



LGC Kids Corner



From left to right, Elizabeth Lincoln, Chelsea Gustafson and Dixie Cercos at the firm's 20th Anniversary Party.

Associate Spotlight Jason A. Specht



Jay Specht is a Senior Associate with the firm, who started with LGC as a Summer Associate in 2000. A native San Diegan who attended San Diego State University, graduating in 1997 with a degree in English, Jay went on to graduate from the University of San Diego School of Law in 2001.

Jay concentrates his practice in the defense of developers, subcontractors, individuals and companies and also advises contractors on risk management. In his free time, he enjoys driving his 1955 Chevy and cheering on the Chargers and Padres. He and his wife Carmela have a one-year-old son, Auggie.

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