CAIIA Status Report

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October 2015

Assumption of Risk
Credit to: Low, Ball & Lynch, San Francisco CA

Stacey Chavez, et al. v. 24 Hour Fitness USA, Inc.
Court of Appeal, Sixth Appellate District
(July 8, 2015)

California's public policy in favor of sporting and leisure activities provides strong support for enforcing written waivers of liability for such activities. The exception is when there is evidence of "gross negligence." In this case, the California Sixth Appellate District reversed the trial court's summary judgment in favor of defendant 24 Hour Fitness USA, Inc. ("24 Hour") due to ambiguous preventative maintenance charts.

When Stacey Chavez ("Chavez") joined 24 Hour, she signed a membership agreement that included a release of liability. Under the release provision, Chavez agreed that 24 Hour would not be liable for any injury she suffered as a result of 24 Hour's negligence. On February 28, 2011, Chavez suffered a traumatic brain injury when the back panel of a "Free Motion" cable crossover machine ("cross-trainer") came loose and struck her head at 24 Hour's Parkmoor facility. Chavez and her husband sued 24 Hour for ordinary and gross negligence, premises liability and strict products liability on November 30, 2012.

24 Hour moved for summary judgment, arguing that the release in the membership agreement barred plaintiffs' claims for negligence and premises liability. As for the strict products liability claim, 24 Hour contended it was not subject to products liability because it was a service provider. 24 Hour also asserted that plaintiffs could not show 24 Hour was grossly negligent because they employed a technician to inspect and maintain the equipment.

In support of its summary judgment motion, 24 Hour submitted the declaration of the Northern California facilities manager stating that each club employs a facilities technician who is responsible for maintenance, inspection, and repair of equipment. The facilities technician's job is to perform monthly preventative maintenance on each piece of equipment listed on a preventative maintenance chart. A maintenance log showed six work orders on the cross-trainer from August, 2009 through April, 2011, with the most recent work order dated March 1, 2010. 24 Hour also submitted the declaration of the service manager of the Parkmoor facility in February 2011. Galan stated that the cross-trainer "underwent preventative maintenance the week of February 7, 2011."

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CAIIA Newsletter
CAIIA Office
PO Box 168
Burbank, CA 91503-0168
Website: www.caiia.org
Email: info@caiia.com
Tel: (818) 953-9200
Editor: Sterrett Harper
Harper Claims Service, Inc.

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California Association of Independent Insurance Adjusters, Inc.

President's Message

Kim Hickey

CAIIA President

I am writing my last President's Message and am amazed at how quickly this year has gone by. This time last year I was busy with the plans for the Fall Meeting and Gala Dance.

The first couple of months as the president were pretty quiet and just about the only challenge was what to say in the President's message. November and December were busy with holidays.

In January, Committees were formed. February, the Bylaws Committee were busy updating our Bylaws and then distributed them to the members to review and approve. Planning began for the midterm meeting.

March, we attended the Combined Claims Conference in Southern California. In April, we had our Mid-Term meeting, including an Ethics CE class.

May and June included DOI Recertification/SEED classes. In July, we actually had a fair amount of rain in Southern California…and it was fabulous.

In August, we attended the Claims Conference of Northern California and it was a great turnout. The conferences and CAIIA meetings are a great place to visit with other independent adjusters, insurance company adjusters, contractors, engineers, attorneys and other professionals in the insurance industry.

August also brought the fires, and they have continued into September. As I am writing this, we are just getting into some of the areas in Northern California. We are seeing the worst. So many families have lost everything. And now we act. This is what we do. We go to the loss location and help the insured's rebuild their homes and their lives. It will take time and we will work extra hours to fulfill the promises made by the insurance companies. We will do our best. By the time this message is posted, I hope that the fires are out.

The CAIIA Board of Directors is comprised of volunteers. Thank you to all of the current board members, and active members. What we do could not be accomplished by one or two people. At the Fall Event we will transition to the new board of Directors. I will become the Past President and my name will be in the Directory for as long as the CAIIA is around. In my first Presidents Message I mentioned that I was honored to be the 2014-2015 CAIIA President and I feel the same today.

This Presidents Message would not be possible without Sterrett Harper. Sterrett is responsible for assembling the CAIIA Status Report and I look forward, monthly, to the articles, helping us all keep our finger on the pulse of the insurance industry. Thank you Sterrett… you are such an asset to the CAIIA, and are always there to offer guidance to me.

I am looking forward to seeing Paul Camacho acting as the new President. He has already shown me he will lead the CAIIA, upholding the Bylaws and bringing new ideas to help us grow. Steve Washington will be the incoming President, Leland Coontz will be the Vice President and Chris Harris will be the Secretary/Treasurer.

Welcome Pat Bobbs, Keith Hillegas and Bob Lobato to the Board of Directors. 2015-2016 will be a great year for the CAIIA. The CAIIA is a place to belong and I encourage all members to get active!

Thank you for your interest in the CAIIA.

Kimberley Hickey, President – CAIIA 2014-2015
khickey@sgdinc.com
(818) 721-4662
Cell (951) 283-6410

This Month's Garagram

Credit to Garrett Engineering, Long Beach, CA

The driver hit the 50-foot wooden power pole, making a large dent in the nose of his car and breaking the pole. There was no dispute over that.

The utility company (which for the purposes of this article, we will abbreviate as "UtilCo") sent out a repair crew, and they repaired the damage by replacing the pole over the next couple days. UtilCo then sent the repair bill to the driver. The five-figure repair bill was the point of contention. UtilCo maintained that this was what it cost, so "pay the bill". The driver sent the bill to his insurance company. The insurance company adjuster balked at the cost and kicked it upstairs. Eventually, the insurance company litigation department became involved. They hired GEI to audit the invoice and tell them if the charges were reasonable.

The charges fell in to three categories: materials, equipment, and labor. The materials component was fairly straightforward. ($1722)

The equipment portion was a little more complicated. The standard method of valuing the use of equipment such as this is to ask what it costs and roughly estimate how many years it takes to wear it out. Then that annual number is divided by workdays in a year to come up with a daily rate. ($2059(

While you may quibble over actual hours used versus days charged, the approach is defensible, especially if you compare what comparable heavy equipment rentals would cost on the open market. After the details were plugged into the spreadsheet, the summary looked like the following equipment table.

The point of contention on the bill was the labor charge section. All told, the timesheets of the UtilCo employees totaled 132.6 hours. We all have driven by construction or utility projects where it appeared that good judgment would say that too many people were getting too little done. In this case, however, they replaced the pole and had the lines back in service in about two days, so unless you had a two-day long video of idle workmen, there was no solid basis for challenging the time spent.

The crew included an apprentice lineman (15.7 hours), three journeymen linemen (totaling 43.7 hours), a technician (14.5 hours), a troubleshooter (7 hours), and a working foreman (14.3 hours). The hours billed tied to employee timesheets. Each of these workers was listed on the invoice as "Occupation, Hours, Amount". The fundamental principle in a case like this is to recover actual costs. The difficulty is in getting all parties to agree on the definition of actual costs. There are two ways to get to that destination.

The first method is to obtain certified payroll records. To this starting point, add all direct identifiable actual overhead expenses. This includes workers compensation insurance, health/dental/vision/chiropractic insurance, all of the various federal/state/local payroll taxes, fees, and assessments, retirement benefits (which may/will vary by year), life insurance and disability insurance benefits, paid holidays, paid sick time, paid vacations, and possibly day care benefits, and don't forget to adjust for the effects of actual overtime (which varies by payroll period). Of course, UtilCo was not going to voluntarily provide a copy of the certified payroll. Even worse was the prospect of both sides spending dozens of hours digging into the specific details of the schedules of actual overhead items, which would be different for each member of the repair crew.

The second method is to ascertain what a typical employee makes (adjusted for geographical location) and use a general overhead percentage. This was our approach.

Per the Bureau of Labor Statistics, the mean hourly rate for a lineman in California is $44.96 per hour. Other reliable, standardized industry sources were comparable at a $47.87 average. An apprentice may earn between 60% and 90% of a journeyman. Foremen earn more; technicians earn less. Overall, 40% is the gold standard payroll overhead percentage across all industries and regions. Typically, construction has very high workers compensation rates, so we were generous and used 50% as the payroll overhead number. So rounding up, $50 per hour plus 50% overhead would be $75 per hour for a lineman. UtilCo charged $172 /hr. for their linemen, $185/hr. for the foreman and $188/hr. for their trouble shooter. Even the apprentice was $136/hr.

This represented many thousands of dollars of overcharging for the labor performed. Our client went back to UtilCo with this data. Happily for our client, UtilCo then reduced their charges, and they reached a favorable settlement..

Continued from page 1

After 24 Hour moved for summary judgment, plaintiffs attempted to depose Mark Idio, the person 24 Hour had identified as being responsible for equipment maintenance at the Parkmoor facility, but he was never located or produced. Plaintiffs opposed 24 Hour's motion for summary judgment and requested a continuance under Code of Civil Procedure section 437c(h) to depose Idio. Plaintiffs argued that there was no evidence that anyone actually performed preventative maintenance on the cross-trainer prior to the accident.

Plaintiffs also argued that 24 Hour failed to exercise even scant care by not performing maintenance as required by the owners' manual and by allowing the machine to remain in service despite a missing bracket and missing magnetic strips designated to secure the back panel. ["Gross Negligence has been defined as either a 'want of even scant care' or 'an extreme departure from the ordinary standard of conduct.'"] Plaintiffs submitted two expert declarations as well as deposition testimony of two 24 Hour members at the Parkmoor facility who witnessed the accident and described conditions of exercise machines that needed repair. Plaintiffs also submitted deposition testimony of two 24 Hour maintenance personnel who acknowledged that nothing on the preventative chart showed that someone actually performed the maintenance on the cross-trainer because the chart was blank.

The trial court denied plaintiffs' request for a continuance, explaining that plaintiffs failed to show good cause since the witness was identified in May, 2013 and not subpoenaed until after 24 Hour moved for summary judgment in November, 2013. The trial court then granted 24 Hour's summary judgment motion. As to the products liability claim, the court said the primary purpose of the membership agreement was fitness services. The court ruled that the negligence and premises liability claims were barred by the release of liability in the membership agreement. As for the gross negligence claim, the court concluded that 24 Hour met its burden to show that it was not grossly negligent by establishing "it had a system of preventative and responsive maintenance of its equipment in place at its locations at the time plaintiff was injured." The court also said plaintiffs failed to present evidence creating a triable issue. The plaintiffs appealed.

The Court of Appeal found that plaintiffs had raised a triable issue of material fact as to whether 24 Hour's conduct constituted gross negligence. The evidence showed regular maintenance was not performed and, on that basis, 24 Hour "failed to exercise scant care or demonstrated passivity and indifference toward results." In addition, plaintiffs raised other triable issues of fact including the missing brackets and the owner's manual's requirement of weekly maintenance.

The Court of Appeal also said the trial court abused its discretion when it denied plaintiffs' request for a continuance to depose the missing Mark Idio. Idio's testimony was essential to plaintiff's opposition, and the Court recognized that not all of the delay was plaintiffs' fault, as 24 Hour had said it would produce Idio. After reviewing the various factors for granting continuances, the Court of Appeal said most of the factors favored a continuance.

The Court of Appeal reversed and ordered the trial court to grant plaintiffs' request for continuance for the deposition of Idio.

COMMENT

This court's reversal opens the door to potential liability for gross negligence claims by stressing the importance of complying with routine record keeping procedures.

Happy Halloween!

Trees placed Close to Roadway May Create Liability

Credit to Tyson & Mendez, La Jolla, CA

In the recent case of *Cordova v. City of Los Angeles*, (2015) 190 Cal.Rptr.3d 850, the California Supreme Court ruled that trees placed closely to a roadway within a public median may be sufficient to expose the public entity to liability, even if a negligent third-party caused the injured party to strike the trees.

Cordova arises from a fatal traffic accident in a Los Angeles neighborhood. Cristyn Cordova was driving her car westbound in the inside lane of Colorado Boulevard, with four passengers in her car. Another vehicle, driven by Rostislav Shnayder, veered into the side of Cristyn's car forcing it over a curb and onto a grassy center median of Colorado Boulevard. Both vehicles were traveling well over the speed limit. Cristyn's car struck one of several large magnolia trees planted in the City's median, approximately seven feet from the inside lane of the roadway. Cristyn and three of the occupants in her car were killed. The negligent driver (Shnayder) was arrested at the scene and later convicted of four counts of vehicular manslaughter without gross negligence.

Cristyn's parents filed a wrongful death action against the City of Los Angeles under Government Code section 835, alleging that the magnolia trees on the grassy median were too close to the travel portion of the roadway and posed an unreasonable risk to motorists who might lose control of their vehicles. Plaintiffs claimed that this dangerous condition proximately caused their decedents' fatal injuries.

Section 835 makes a public entity liable for injury proximately caused by a dangerous condition of its property if the risk of injury was reasonably foreseeable and the entity had sufficient notice of the danger to take corrective measures. A dangerous condition exists on public property if it "is physically damaged, deteriorated, or defective in such a way as to foreseeably endanger those using the property itself." (*Bonanno v. Central Contra Costa Transit Authority* (2003) 30 Cal.4th 139, 148.) A condition is not dangerous if a court "determines as a matter of law that the risk created by the condition was of such a minor, trivial, or insignificant nature in view of the surrounding circumstances that no reasonable person would conclude that the condition created a substantial risk of injury when such property or adjacent property was used with due care in a manner in which it was reasonably foreseeable that it would be used." (Gov't. Code § 830.2.)

The City filed a successful motion for summary judgment by placing the blame on the negligent third party driver, Shnayder. The City argued the street and median were not dangerous and the accident was caused by Shnayder's vehicle rather than the configuration of the roadway. The City contended its liability hinged "on whether an aspect of public property somehow caused, facilitated, or encouraged the third party conduct" of Shnayder. Without such evidence, the City argued the plaintiffs failed to raise any triable issue.

Plaintiffs responded by producing evidence that the subject roadway constituted a dangerous condition, supported by declarations from experts who opined that the proximity of the magnolia trees to the travel portion of the roadway presented a significant and foreseeable danger to the public; summaries of 142 traffic accidents on Colorado Boulevard between January 1998 and April 2009; and publications discussing the "clear zone" concept of roadside safety.

The Court of Appeal affirmed judgment for the City, explaining that the configuration of the roadway was not a dangerous condition because "[t]here is nothing about Colorado Boulevard that would cause a person driving at or near the speed limit to suddenly veer into the magnolia trees. Plaintiffs do not contend the view of the median was in any way obscured such that the tree was a surprise obstacle in the roadway, or that the median and trees caused cars to travel at unsafe speed ... such that persons using the roadway with due care would be hit by such vehicles." (Cordova v. City of Los Angeles, (2015) 190 Cal.Rptr.3d 850 at 2.) In other words, the appellate court agreed that in order for the City to face liability, the alleged dangerous condition (roadway and median trees) must have caused the actions of Shnayder that precipitated the accident.

The Supreme Court flatly disagreed. In reversing the decision, the Court held that plaintiffs were not required to show that the allegedly dangerous condition of the trees in the median caused the negligent third party conduct that led to the accident in order to establish a dangerous condition of public property. Analyzing section 835, the Supreme Court concluded plaintiffs were not required to show that the allegedly dangerous condition caused the third party conduct that precipitated the accident. Instead, it was sufficient for plaintiffs to establish that the City's roadway was "in a dangerous condition at the time of the injury" and that "the injury was proximately caused by the dangerous condition." (Gov't Code § 835.)

Today we hold only that … a governmental entity is not categorically immune from liability where it is alleged that a dangerous condition of property caused the injury that the plaintiffs suffered in an accident, but did not cause the third party conduct that precipitated the accident. (Cordova v. City of Los Angeles, (2015) 190 Cal.Rptr.3d 850 at 8.)

It is relatively common for government entities to move for summary judgment in actions for alleged dangerous condition of public property. In light of Cordova, however, government entities may not trump liability in such motions by blaming an intervening third party tortfeasor. In this case, the trees closely situated to the street may ultimately be sufficient to establish liability against the City, even if the trees or roadway did not cause the third party driver's (Shnayder's) veering of her vehicle.

Miss Toyota Long Beach Grand Prix beauty contestant sentenced for worker's comp fraud

Credit to CAL-OSHA Newsletter

RIVERSIDE, Calif. (AP) >> A Southern California woman who claimed she couldn't work because of a foot injury — until she was spotted wearing high heels in beauty contests — has been sentenced for workers' compensation fraud.

Shawna Lynn Palmer of Riverside was ordered Friday to perform 50 hours of community service and pay $6,000 in fines and restitution.

Palmer was a clerk at Stater Bros. last year when she claimed to have fractured a toe at work. Palmer claimed she couldn't work and collected workers' compensation benefits.

However, video posted online showed the 22-year-old wearing high heels while competing in the Miss Toyota Long Beach Grand Prix beauty contest.

DOI Press Release
Bay Area bail agents targeted in law enforcement sweep

SAN JOSE, Calif. - Bail agents across five Bay Area counties were arrested by law enforcement personnel from the California Department of Insurance and the Santa Clara County District Attorney's Office and are being charged with numerous felonies for illegal business practices. This is the largest enforcement action ever conducted by the department involving bail agents.

The arrest sweep, which focused on seven companies, including Aladdin and Luna Bail Bonds and Bail Hotline, began last Thursday and targeted bail agents in Santa Clara, Alameda, Monterey,
San Benito and Merced counties. As of Monday, afternoon 30 are in custody and with one arranging to surrender. The Santa Clara District Attorney is prosecuting the cases.

"Bail agents play an important role in our criminal justice system, which should be free from corruption," said Insurance Commissioner Dave Jones, whose department licenses bail agents in California. "Complaints against bail agents for unfair business practices and alleged illegal activity have been increasing steadily. These arrests and license suspensions should serve as a warning to any bail agent skirting the law that it won't be tolerated."

The department immediately suspended the licenses of all 31 bail agents identified in the enforcement action. They are no longer allowed to serve as bail agents or transact bail business. The enforcement action is the result of a multi-year investigation that uncovered schemes by bail agents to scoop business away from competitors by rewarding jail inmates with money added to their jail accounts for providing information about newly booked individuals in the jails.

The investigation, which included 15 search warrants, approximately 100,000 digital recordings and 50 witness and bail agent interviews, also revealed evidence of the illegal use of unlicensed individuals to transact bail and a bail agency employing a convicted felon as a bounty hunter-a violation of the Bail Fugitive Recovery Act.

"We are committed to hold accountable those who illegally undermine a system that is set up to ensure a defendant's presence in the court room and protect the public," said Santa Clara County District Attorney Jeff Rosen.
In 2013, the department sent a letter to all licensed bail agents noting complaints the department was receiving throughout the state and reminding bail agents of their obligation to follow all laws and regulations. Santa Clara County District Attorney Jeff Rosen also sent a letter warning all South Bay bail agents within his county to follow the letter of law.
As complaints about alleged illegal business practices by bail agents have increased, the Department of Insurance requires additional resources to investigate. Commissioner Jones sponsored AB 1406 Assembly member Richard Gordon (D-Menlo Park), to provide the Department of Insurance and district attorneys with resources needed to hold California's more than 3,000 licensed bail agents accountable and deter illegal activity. Commissioner Jones hopes that the Assembly Appropriations Committee, which held AB 1406 this year, will allow a successor bill to move forward next year to provide the Department and district attorneys with the resources they need to police bail agents illegal activity.

Product Liability

Credit to Low, Ball & Lynch, San Francisco, CA

In a products liability case, a plaintiff may seek recovery on theories of both negligence and strict liability. Strict products liability was originally applied to manufacturers of consumer goods but has been extended to retailers, distributors, suppliers and other entities in the chain of distribution of a product that causes harm to a person or to property other than the product itself. A "product" is broadly defined to include any "tangible personal property distributed commercially for use or consumption." (Rest.3d Torts, Products Liability, § 19, subd. (a).) This case considered the question of whether a supplier of raw material used in the manufacture of another product can be held liable for design defect under the Consumer Expectation test.

In 2013, plaintiff David Johnson ("Johnson") sued U.S. Steel and others after being diagnosed with acute myeloid leukemia. He claimed his cancer was caused by benzene in paints, solvents or other products to which he was exposed while working as an auto mechanic in the 1970s and 1990s. Among those products was Liquid Wrench, which he used "almost daily" to loosen rusted machine components. He claimed the solvent would "get all over" him when he was working under cars. He recalled a skull and cross bones symbol on the container, identifying it as the "raffinate-based" formula. Liquid Wrench was formulated by Radiator Specialty Company (RSC), and one formulation contained coal raffinate, a byproduct of steel production that U.S. Steel supplied to RSC. U.S. Steel did not dispute selling that the raffinate it sold to RSC between 1960 and 1978 contained benzene, but it presented evidence that RSC also sold a petroleum-based formulation of Liquid Wrench during that time and currently, that Liquid Wrench does not contain benzene.

U.S. Steel moved for summary judgment, claiming the evidence was insufficient to show Johnson was exposed to raffinate-formula Liquid Wrench. U.S. Steel alternately sought summary adjudication of the negligence and product liability causes of action to the extent they were based on a failure to warn. U.S. Steel argued it was a bulk supplier of a raw material and any duty to warn of the material's health hazards was discharged when it provided adequate warnings to RSC. The trial court held there was a triable issue of fact as to Johnson's exposure to raffinate-based Liquid Wrench but U.S. Steel satisfied its duty to warn of health hazards when it provided warnings to RSC. In its reply brief, U.S. Steel argued for the first time that it was entitled to summary judgment because it was a "bulk supplier" of a raw material that was added to other ingredients, packaged and sold by an intermediary. The court received supplemental briefing on the issue. Johnson argued that U.S. Steel may be liable because the raffinate it sold was defective in design when it left U.S. Steel's factory. U.S. Steel argued that raffinate and the benzene it contained was not defective, as it could be safely used with proper handling. The trial court granted summary judgment, holding "the potentially hazardous nature of a substance does not equate to an inherent defect."

Johnson appealed. The Appellate Court noted that strict liability is not absolute liability. (*Anderson v. Owens-Corning Fiberglas Corp.* (1991) 53 Cal.3d 987, 994.) A manufacturer is not an insurer against all injuries that may result from the use of its product; it is liable for injuries caused by a product *defect*. (*Ibid.*) In California, a product is defective in design if it fails to meet ordinary consumer expectations as to safety or the design is not as safe as it should be. Product sellers are responsible for defects existing in the product when it leaves the seller's control and is placed on the market. Thus, the seller of a completed product is strictly liable for any defect in the completed product, regardless of the "source" of the defect; "a manufacturer of a completed product cannot escape liability by tracing the defect to a component part supplied by another." (*Vandermark v. Ford Motor Co.* (1964) 61 Cal.2d 256, 261.) But the seller of a component part is strictly liable only for defects in the component part *it sold*. (*Jimenez v. Superior Court, supra,* 29 Cal.4th at p. 480.)

The Court then analyzed the Component Parts Doctrine, which provides that component parts manufacturers are not liable for injuries caused by the finished product unless the component itself was defective and caused harm. Thus, it reasoned that U.S. Steel bore no responsibility for damages caused by Liquid Wrench if the raffinate was not itself defective when delivered to RSC for incorporation into the finished product, but U.S. Steel was liable if the raffinate was defective and its defect caused Johnson's injuries. Resolution of this issue turned on the reasonable expectations of the consumer. Applying the Consumer Expectations test, the Court emphasized that the product in question here was not benzene, but raffinate. It was raffinate that was claimed to be defective. None of the previous cases the Court analyzed had determined whether the coal-based raffinate sold by U.S. Steel was a defective product. While raffinate may be a substance with which ordinary consumers were unfamiliar and had no expectations concerning its properties or effects, if the evidence showed its incorporation into Liquid Wrench or any finished product caused that product to be less safe than ordinary consumers would expect, the raffinate would be shown to contain a design defect under the Consumer Expectations test.

As the moving party for summary judgment, it was U.S. Steel's burden to present evidence negating the existence of a design defect in the raffinate. It failed to do so, and the burden of presenting contrary evidence never shifted to Johnson. Thus, summary judgment was inappropriate, and the judgment was reversed.

Comment

The supplier of a raw material used in another product can be held liable for design defect under the Consumer Expectations test only if the raw material is itself inherently defective. Here, the raffinate U.S. Steel supplied to RSC that was used in Liquid Wrench contained benzene, which has been identified as a possible cause of myeloid leukemia. Johnson provided evidence (recalling the skull-and-crossbones on the can) that he was exposed to raffinate-containing Liquid Wrench, and U.S. Steel failed to produce evidence that its raffinate was not defective under the Consumer Expectations test.

More DOI Press Releases...

$21 Million Movie Investment Scheme

LOS ANGELES, Calif. - Michelle Kenen Seward, 42, of Flintridge, surrendered to authorities on September 10, and Dror Soref, 75, of Los Angeles was arrested on September 11 and charged with operating a Ponzi scheme allegedly bilking investors from Los Angeles and Kern Counties out of $21 million dollars in an elaborate movie investment scheme.

Department of Insurance Investigation Division Valencia officeconducted the investigation with the Department of Business Oversight and uncovering evidence that Seward, a former licensed insurance agent and CEO of Protégé Financial and Insurance Services, Incorporated and Saxe-Coburg Insurance Solutions, LLC, allegedly convinced her clients to invest their life savings in a film directed by Soref titled Not Forgotten, which was an unsecured investment.

In some cases, Seward talked clients into surrendering annuities early and paying large penalties by promising returns of between 10 and 18 percent. Investors that surrendered annuities paid more than $600,000 in penalties and fees for early withdrawal.

After the film's completion, the two formed a new entity titled Windsor Pictures, LLC, which investors were promised would produce several films. Investors were given promissory notes and told they would again earn between 10 and 18 percent on their investment.

Investigators found evidence that investors' money used to form Windsor Pictures was used to pay investors in the production of Not Forgotten. Additionally, Seward and Soref were not licensed to sell securities or provide investment advice.

The case is being prosecuted by the Los Angeles County District Attorney's office.

Sacramento Siblings Sentenced

SACRAMENTO, Calif. - Michael George Mello Jr., 37, and his sister Mary Catherine Rodriguez, 38, owners of Sacramento-based Green Valley Landscaping Services, pleaded no contest yesterday to workers' compensation insurance fraud and tax evasion.

Between July 2010 and July 2013, the siblings conspired to commit workers' compensation insurance premium fraud by significantly underreporting the number of employees and payroll in their business. By operating in California's illegal underground economy, this fraud left employees at risk and homeowners who hired them financially vulnerable and liable for possible injuries.

In total, the defendants cheated workers' compensation insurance carriers out of $144,672 in premiums and the Employment Development Department (EDD) out of $110,462 in payroll taxes.

"The underground economy is not a victimless crime," said Insurance Commissioner Dave Jones. "Not only were numerous people in this case put at risk, but every consumer and legitimate business pays the price for workers' compensation insurance fraud as insurers pass their losses on to policyholders and businesses then pass their increased costs to consumers."

Mello was sentenced to 30 days county jail, 5 years formal probation and ordered to pay $144,672 in restitution to insurance companies and $110,462 to EDD. Rodriguez was sentenced to 3 years probation, 50 hours of community service and order to pay EDD $110,462 in restitution jointly with her brother.

This case is a result of a joint investigation by the department's Fraud Division, EDD and the Department of Industrial Relations. The Sacramento District Attorney's Office prosecuted this case.

On the Lighter Side…

You are driving down the road in your Corvette on a wild, stormy night, when you pass by a bus stop and you see three people waiting for the bus:

1. An old lady who looks as if she is about to die.

2. An old friend who once saved your life.

3. The perfect partner you have been dreaming about.

Which one would you choose to offer a ride to, knowing that there could only be one passenger in your car? Think before you continue reading.

This is a moral/ethical dilemma that was once actually used as part of a job application.
You could pick up the old lady, because she is going to die, and thus you should save her first.
Or you could take the old friend because he once saved your life, and this would be the perfect chance to pay him back.
However, you may never be able to find your perfect mate again.

YOU WON'T BELIEVE THIS...

The candidate who was hired (out of 200 applicants) had no trouble coming up with his answer. He simply answered:
'I would give the car keys to my old friend and let him take the lady to the hospital. I would stay behind and wait for the bus with the partner of my dreams.'

Sometimes, we gain more if we are able to give up our stubborn thought limitations.

Never forget to 'Think Outside of the Box.'