



Murchison & Cumming

LAWYERS

M&C IN BRIEF

Spring 2008

CONTENTS

FEATURES

- Jean M. Lawler Named Managing Partner of Murchison & Cumming, LLP1
- Robert H. Panman and Eric P. Weiss Named Partners2
- Jury Unanimously Rejects Judge's \$21 Million Personal Injury Suit2-3
- Media Interest in Murchison & Cumming Trial Victory In Peppy's Case Unprecedented.3
- Russell Wollman: Quietly Effective Trial Lawyer3-4
- Three Named Southern California Super Lawyers4
- Chubb Insurance Group Defeats M&C San Diego Triathlon Relay5
- Recent and Upcoming Speaking Engagements 5
- San Francisco "Paid Leave Ordinance". 6-8
- Edmund G. Farrell Elected to Serve on ASCDC Board of Directors8
- Meet the Attorney9
- Murchison & Cumming Changes Location in Nevada.....9

ARTICLES

- M&C Case Reviews9-12

ANNOUNCEMENTS

- M&C Welcomes12
- M&C's New Practice Groups13

SERVICES & AFFILIATIONS.14

CONTACTS.....15

CALENDAR

June 10, 2008

M&C Insurance Roundtable
The Art of Settlement Negotiations & Dispute Resolution

September 16, 2008

M&C Insurance Roundtable
Coverage Issues in General Liability Cases

November 12, 2008

M&C Insurance Roundtable
Construction Defect Claims



JEAN M. LAWLER NAMED MANAGING PARTNER OF MURCHISON & CUMMING, LLP

Murchison & Cumming, LLP is pleased to announce that Jean M. Lawler has been named Managing Partner of the Firm, effective January 1, 2008. As Managing Partner, Ms. Lawler looks forward to working with the Firm's partners, attorneys and clients to continue to build on the foundation of the Firm's 77-year history of, and reputation for, excellence. In addition to her duties as Managing Partner, Ms. Lawler will continue to chair the Firm's Insurance Law and Business Transactions practice groups.

Ms. Lawler succeeds Friedrich W. Seitz, who served as Managing Partner from 1986 through 2007 and whose loyal service played a key role in the growth and development of the Firm. Mr. Seitz, a nationally respected trial attorney, will continue to serve as Chair of the Firm's Product Liability and International Law practice groups. Mr. Seitz stated, "Jean has the leadership and strategic vision to bring continued success to the Firm. I am pleased that she has agreed to step into this role."

Ms. Lawler is a Past President of the Federation of Defense & Corporate Counsel, the only woman to have served in that position. She has also served as a Director of the Defense Research Institute, Lawyers for Civil Justice, Association of Southern California Defense Counsel and the FDCC Foundation.

First associated with Murchison & Cumming in 1985, Ms. Lawler became the Firm's first female partner in 1993. She is a frequent author and speaker on topics relating to the insurance industry and, in 2005, co-founded the National Seventh Amendment Summit on the Right to Trial by Jury, "The American Jury Trial - Do We Allow Its Death or Lead Its Rebirth?" a joint project of the FDCC and ABOTA.

Ms. Lawler is a graduate of Loyola Marymount University and Loyola Law School of Los Angeles, and is a certified mediator. She is resident in the Firm's Los Angeles office.

Ms. Lawler may be contacted at (213) 630-1019 or by e-mail at jlawler@murchisonlaw.com.

FEATURES

**ROBERT H. PANMAN AND ERIC P. WEISS NAMED
PARTNERS OF MURCHISON & CUMMING, LLP**

Murchison & Cumming, LLP is pleased to announce that Robert H. Panman and Eric P. Weiss have been named Partners of the firm, effective January 1, 2008.

Robert H. Panman emphasizes his practice in the areas of construction, general liability and employment law in the Los Angeles office. Other areas of practice include transportation law, personal injury and Civil Rights litigation. Mr. Panman has experience in all phases of civil litigation including mediation, arbitration and trial including success in obtaining defense verdicts and voluntary dismissals on many occasions. He joined the firm as an associate in 1999 after graduating from the University of California, Santa Barbara (B.A.) and Loyola Law School (J.D.). Mr. Panman was a recipient of the American Jurisprudence Award for Constitutional Law and Criminal Procedure, and was named a 2006 and 2007 *Rising Star* by Law & Politics. Mr. Panman is a member of the California and Nevada State Bars.

Eric P. Weiss also joined the Los Angeles office of Murchison & Cumming as an associate in 1999. He is a member of the firm's Product Liability and General Liability practice groups, focusing on the areas of general tort, products liability and environmental and toxic tort litigation. Mr. Weiss has extensive experience in all phases of litigation, mediation, and arbitration. He is a member of the California State Bar, the Los Angeles County Bar Association and the American Bar Association. Mr. Weiss is a graduate of the University of Delaware (B.A.), and the Whittier College School of Law (J.D. magna cum laude), where he was both Lead Articles Editor and Notes and Comments Editor of The Whittier Law Review.

Mr. Panman may be contacted at (213) 630-1048, or at rpanman@murchisonlaw.com. Mr. Weiss may be reached at (213) 630-1057, or at eweiss@murchisonlaw.com.

**JURY UNANIMOUSLY REJECTS JUDGE'S \$21 MILLION
PERSONAL INJURY SUIT**

Schiavelli v. Peppy, LLC

A Van Nuys jury recently rejected U.S. District Judge George P. Schiavelli's claim that he was entitled to \$21 million in damages resulting from severe injuries that he sustained in an alleged escalator accident at an Encino shopping center.

A nine-woman, three-man panel took less than two hours to determine that Peppy LLC was not negligent in its operation/maintenance of its escalators and that Schiavelli has simply lost his footing and fell in the August 12, 2005 mishap at the Encino Shopping Center.

"I am very gratified for this verdict because it truly represents the evidence, and the jury was able to see the evidence accurately without concern that the plaintiff happened to be a respected judge," said Peppy attorney Russell S. Wollman, a partner in Los Angeles-based Murchison & Cumming. "My client's escalators functioned perfectly on the day of Judge Schiavelli's accident."

(Continued on Page 3)

FEATURES

(Continued From Page 2) Browne Greene, attorney for the former Superior Court Judge who was appointed to the federal bench in 2004 by President Bush, had asked the jury to award his client millions in damages for medical bills, lost earnings, impaired future earnings and pain and suffering.

Schiavelli claimed that damage to his knees, back and shoulder were such that his ability to secure lucrative pay later in his legal career as a private judge was threatened. He attended only part of the trial with use of a walker, necessitated by recent knee surgery that he claimed was required because of the incident. Wollman was assisted by Associate Mhare O. Mouradian.

Russell S. Wollman and Mhare O. Mouradian
Los Angeles

MEDIA INTEREST IN MURCHISON & CUMMING TRIAL VICTORY IN PEPPY'S CASE UNPRECEDENTED

By nature, defense verdicts in civil trial cases do not receive much--if any--media attention. When there is no shocking, huge award made against a corporate defendant, many media outlets including those that focus on legal reporting, do not see it as newsworthy. Or, if it makes the newspaper at all, it is toward the back pages in fine print.

That was not the case when Partner Russ Wollman and associate Mhare Mouradian guided Murchison & Cumming client Peppy's, LLC to a unanimous defense verdict in the elevator accident lawsuit filed on behalf of sitting U.S. District Judge George Schiavelli, and tried by legendary plaintiff personal injury lawyer Browne Greene of Greene, Broillet & Wheeler of Santa Monica.

The *Los Angeles Times* published not one, but two, comprehensive reports on the trial result. The *Los Angeles Daily Journal* reported on the Peppy's trial win in a major front-page story.

Most other local newspapers picked up the story from wire sources, and electronic media was not far behind. TruTV (formerly court TV), reported the verdict, as did a number of Los Angeles-area television and radio stations. Newspapers in Mississippi, Boston and Florida ran stories on the case.

A new round of reporting has just started, in light Judge Leon Kaplan denying the recent Motion for New Trial filed by Judge Schiavelli.

RUSSELL WOLLMAN: QUIETLY EFFECTIVE TRIAL LAWYER

Murchison & Cumming partner Russell S. Wollman is something of a rarity among trial lawyers. He is quiet, unassuming and does not really care that much for publicity, even when he wins a very big case like recent the Schiavelli v. Peppy's matter.

That might help explain why he matched up so well with larger-than-life plaintiff lawyer Brown Greene in that case. Greene's widely admired style, which has proven immensely successful over many years, includes a skilled mixture of theatrics, law, references to history and political leaders, histrionics capped by his trademark fire-and-brimstone closing argument. It has helped Greene obtain hundreds of multimillion dollar plaintiff verdicts and settlements even in the most difficult trials and Los Angeles is well populated with defense lawyers who figured they had him beat, but it ended up the other way around.

But in a case involving a sitting Federal judge, claiming that he and he alone was victimized by and allegedly malfunctioning escalator at a busy Encino mall, and that he was entitled to \$21 million in damages including what he hoped to earn some day in the lucrative business of private judging, Wollman's style may have been key.

Soft-spoken, credible, understated. No need to raise his voice. Just present the evidence that the escalator was well--and expensively--maintained, that no one else claimed to be hurt despite the escalator being heavily used that day, and that when government officials inspected the escalator after the alleged accident, found nothing wrong with it and put it back into service.

"I just tried to let the evidence speak for itself, and focus on persuading the jury that the evidence, not the plaintiff's respected status as a federal judge, was what this case was about from the start to finish," said Wollman.

(Continued on Page 4)



FEATURES

THREE NAMED SOUTHERN CALIFORNIA
SUPER LAWYERS®

Murchison & Cumming is proud to announce that Senior Partner and former Managing Partner, Friedrich W. Seitz, Managing Partner, Jean M. Lawler and Senior Partner Michael B. Lawler, have been named Southern California *Super Lawyers* for 2008. Moreover, former Managing Partner Seitz has been named for his fifth consecutive year. Seitz, who heads the firm's Products Liability practice group was honored in the Litigation category. The selections for *Super Lawyers* are made by Law & Politics, a division of Key Professional Media, Inc. Each year, Law & Politics undertakes a rigorous multi-phase selection process that includes a statewide survey of lawyers, independent evaluation of candidates by Law & Politics' attorney-led research staff, a peer review of candidates by practice area, and a good-standing and disciplinary check.



Friedrich W. Seitz is a Senior Partner and Chair of the firm's Product Liability, Business Litigation and International Law Practice Groups. A prominent trial attorney and litigator in both domestic and international matters, Mr. Seitz has served as Chair of the Product Liability Section of the Federation of Defense and Corporate Counsel.



Jean M. Lawler is Managing Partner and Chairs both the Business Transactions and Insurance Law Practice Groups. Ms. Lawler is a Past President of the Federation of Defense Corporate Counsel (2004-2005) and was awarded the 2006 Service Award by the Defense Research Institute for her years of leadership and service for that organization.



Michael B. Lawler is a Senior Partner and Chairs the firm's Employment and Health Law Practice Groups. Mr. Lawler is a Past President of the Association of Southern California Defense Counsel and has successfully tried more than 100 jury trials in the federal and state courts. Mr. Lawler was the partner responsible for establishing M&C's Northern California office.

RUSSELL WOLLMAN

(Continued From Page 3) That strategy no doubt worked, as the jury not only returned a unanimous 12-0 defense verdict but did it in not much more than an hour after a hotly contested three-week trial.

Wollman is not only a quiet man, but a consistent one. He and his wife, Shari, have been married for 18 years. He has been at Murchison & Cumming, first as an associate, and now a partner, since 1986.

How did he celebrate winning one of the biggest verdicts in the long history of Murchison & Cumming? People who know him will not be surprised to know it was quiet dinner with Shari, who is also a lawyer, and son Harrison, 14, and daughter Lilly, 8. They were of course proud that Russ had handed Browne Greene one of very rare trial losses, but more than anything, they just had not seen him much over the last month while he was tying the case and it was time to do some family catch-up time.

FEATURES



Left to right: John Penfield, James Castaneda and Robert Starr of Chubb. Jefferson Smith, Scott Loeding and William Snyder of M&C.

CHUBB INSURANCE GROUP DEFEATS M&C SAN DIEGO IN TRIATHLON RELAY

By Jefferson S. Smith

Murchison & Cumming San Diego will be looking for a measure of revenge when it competes at the upcoming Carlsbad Triathlon, relay division, on July 13, 2008.

Chubb Insurance claim handling professionals John Penfield, James Castaneda and Robert Starr defeated M&C's San Diego attorneys Jefferson S. Smith, William J. Snyder and Scott J. Loeding in the Carlsbad Triathlon last year. The two teams competed in the 1K swim, 25K bike and 5K run distance relay event on July 8, 2007.

Chubb Insurance competed under the name "2OldNSlow" and finished the relay race in one hour, 43 minutes. M&C, San Diego, under the name "Slowerest," finished the relay race in one hour, 46 minutes.

The star of the event was Chubb's Castaneda on the bike, with a blistering time of 54 minutes. However, Loeding was able to close the gap for M&C, San Diego, with a strong closing sprint to the finish.

This year, M&C is determined to have a rematch, and Smith stated that he "will still swim in the ocean despite the recent rash of hungry sharks along San Diego's coastline" in order to defeat Chubb.

If you are interested in participating in the 2008 Carlsbad Triathlon with a relay team, please contact Jefferson S. Smith at (619) 544-6838 or at jsmith@murchisonlaw.com.

RECENT AND UPCOMING SPEAKING ENGAGEMENTS

November 2007

"Investigation and Defending Clergy Abuse Litigation," Michael B. Lawler, Annual Meeting of Major Superiors of Orders Serving in the Archdiocese of Los Angeles, Los Angeles

February 2008

"Global Warming: How Hot Will It Get? Potential Claims and Related Coverage Issues," Jean M. Lawler, FDCC Winter Meeting, Bahamas

March 2008

Year In Review, Edmund G. Farrell, ASCDC Annual Seminar, Los Angeles

April 2008

"Experts: Retaining The Right One In Casualty Cases," Jean M. Lawler, PLRB/LIRB 2008 Claims Conference, Boston

April 2008

"Issues In Insurance Law," Bryan M. Weiss, USLAW Spring Client Conference, Miami

April 2008

"Anatomy of an Elevator Accident Trial," Guy R. Gruppie, National Association of Elevator Contractors Annual Meeting, Sarasota, FL

April 2008

"Leadership In Practice: Developing your Personal Leadership Style," Jean M. Lawler, FDCC Leadership Institute, University of Chicago Graduate School of Business

Various Dates 2008

Regional Claims Conferences, Dan L. Longo and Bryan M. Weiss, PLRB, Various Locations

FEATURES**SAN FRANCISCO “PAID LEAVE ORDINANCE”**

By Pamela J. Marantz

The San Francisco “Paid Leave Ordinance” (Chapter 12W of SF Administrative Code, adopted as Proposition “F”), went into effect February 5, 2007. The ordinance is being closely watched by business groups, employee rights activists, and government and private practice lawyers because San Francisco fashions itself as a legal trendsetter on issues of employee benefits law.

In a nutshell, the ordinance makes it a requirement for all employers to provide paid sick leave to all employees working in San Francisco. Note that the Ordinance includes “all employers” i.e. employers located inside and outside of California. For example, you may have an employer outside San Francisco with employees working in San Francisco. The ordinance would apply.

The term “employee” includes full-time, part-time, temporary and undocumented workers as well as “household employees.”

Independent contractors are excluded. Note, however, that labeling someone an “independent contractor” does not make it so. Rather, fact-specific inquiries should demonstrate that the person is an “independent contractor” under CA law. Thus, it is important to determine, for example, whether a commissioned worker is truly an independent contractor or an “employee”.

Accrual of Paid Sick Leave

For employees working for an employer on or before February 5, 2007, paid sick leave begins to accrue on that date. For employees hired after February 5, 2007, paid sick leave begins to accrue 90 days after the employee’s first day of work. For every 30 hours worked, an employee accrues one hour of paid sick time. Paid sick leave accrues only in hour increments, not in fractions of an hour.

For employees of employers for which fewer than 10 persons (including full-time, part-time, and temporary employees) work for compensation during a given week, there is a cap of 40 hours of accrued paid sick leave. For employees of other employers, there is a cap of 72 hours of accrued paid sick leave. An employee’s accrued paid sick leave does not expire; it carries over from year to year.

If an employer has a paid leave policy, such as a paid time off policy, that makes available to employees an amount of paid leave that may be used for the same purposes as paid sick leave under the law and that is sufficient to meet the accrual requirements under the law, the employer is not required to provide additional paid sick leave.

All or any portion of the applicable requirements shall not apply to employees covered by a bona fide collective bargaining agreement to the extent that the law’s requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms.

Use of Paid Sick Leave

An employee may use paid sick leave not only when he or she is ill, injured, or for the purpose of receiving medical care, treatment, or diagnosis, but also to aid or care for a family member or designated person (discussed below) when they are ill, injured, or receiving medical care, treatment, or diagnosis.

(Continued on Page 7)

FEATURES

(Continued From Page 6) If an employee has no spouse or registered domestic partner, the employee may designate one person for whom the employee may use paid sick leave to provide aid or care. Employers must offer the opportunity to make a designation no later than 30 work hours after the date paid sick leave begins to accrue. The employee has 10 workdays to make this designation. Thereafter, employers must offer the opportunity to make or change the designation on an annual basis, again with a window of 10 workdays for the employee to make the designation.

Additional Employee Rights & Employer Responsibilities

Employers must post a notice informing employees of their rights in a location where employees can read it easily. OLSE provides this notice through the city's annual business registration mailing. A downloadable version of the notice is also available on OLSE's website.

Employers must retain records documenting hours worked by employees and paid sick leave taken by employees, for a period of four years, and shall allow OLSE access to such records.

Employees who assert their rights to receive paid sick leave are protected from retaliation.

Employees who are denied their rights under the law may file a complaint with OLSE.

Records To Be Kept By Employer

Employers must retain records documenting hours worked by employees and paid sick leave taken by employees for a period of four years and must allow OLSE access to such records. In the case of Exempt Employees, employers must maintain records of work schedules and days worked, but do not need to maintain records of actual hours worked. Employers must retain employee records for a period of four years even if the employee ceases to perform work in San Francisco or if there is a separation of employment.

Common Questions:**Is the sick leave pay paid at termination?**

No. Sick leave must be paid no later than the payday for the next regular payroll period after which the employee took the sick leave. However, if the employer has a reasonable verification requirement, the employer is not obligated to pay sick leave until an employee has complied with the verification requirement.

Once the employees hit the 72 hours cap of paid sick leave, does the cap remain until they used it?

Yes. Unused hours of paid sick leave that employees have accrued do not expire. However, once the employees hit their cap of paid sick leave, they no longer accrue paid sick leave until they use some of the hours they have "in the bank".

For example, Jane works for a Small Business. From January through July, Jane accrues 40 hours of paid sick leave. As an employee of a Small Business, that is her cap. She continues to work, without using any of the paid sick leave that she has accrued, for the next two years. At that point, she still has only 40 hours of paid sick leave "in the bank". Jane then falls ill and uses 8 hours of her paid sick leave. She now has 32 hours of paid sick leave left. When she returns to work, she will begin to accrue new hours of paid sick leave back up to her cap.

Can the employees use their vacation day instead, and allow their sick pay to remain?

Yes. That is up to the employer's policy. The focus of the Ordinance is to make certain that employees have paid leave when sick, whether that is straight sick leave or vacation is up to the employer. *(Continued on Page 8)*

FEATURES

(Continued From Page 7)

What is the rate of pay for employees who are paid by commission?

For employees who are paid by commission (whether commission only or base wage plus commission), the sick leave rate of pay shall be calculated as follows: divide the employee's total earnings for the prior calendar year by the total hours worked during the prior calendar year. For employees without a prior calendar year's work history, divide the employee's total earnings since the employee's date of hire by the total hours worked since that date.

**EDMUND G. FARRELL ELECTED TO SERVE ON
ASCDC BOARD OF DIRECTORS**

Murchison & Cumming Senior Partner, Edmund G. Farrell, was recently elected to the Board of Directors for the Association of Southern California Defense Counsel (ASCDC), after being personally asked to serve by the organization's incoming president, Randy Dean.

There are about 20 other members on the Board of Directors from various firms throughout Southern California. As the "new kid on the block," Farrell was asked to participate in a number of committees, including the membership committee and the Brown Bag committee, which sets up informal lunches with the judiciary throughout the year.

Farrell has been involved with the ASCDC for approximately 18 years and, in 1992, he began to participate in the organization's annual Year In Review seminar as a speaker. Seminar speakers present a yearly review of new cases to attendees. His presenting partners have changed over the years, but Robert Olson of Greines, Martin, Stein & Richland has collaborated with him the past 10 years. Farrell and Olson's presentations have been well received, are constantly complimented for their written seminar materials, and have quickly become one of the most well attended within the seminar. Farrell has been asked to present every year since he began.

About eight years ago, Farrell decided to take the format of the Year in Review and present it to M&C clients who were located out of state and could not attend the annual ASCDC meeting. As with ASCDC's Year In Review, M&C's seminar has become an event that our clients look forward to every year, and has been well received.

Regarding his future goals serving in ASCDC's Board of Directors, Farrell said, "My hope is to continue with the group for a number of years and eventually work my way up through the Executive Board. It is a lot of work but it gives me a chance to interact with other members of the defense bar on issues that are important and unique to us as defense counsel for the insurance industry."

M&C CASE REVIEW**MEET THE ATTORNEY**

Associate Julie Kruze, Murchison & Cumming's newest lawyer in its Nevada office, did not always envision herself as a lawyer. From age 10, her dream and initial career dream was to be a professional musician, with the law serving as a back-up plan to her beloved violin. However, as is sometimes the case in life, Plan "B" becomes reality and she turned out to be a lawyer.

Julie obtained her juris doctor from Wayne State in 2001, and became a member of the Michigan bar that year. In February of this year, the University of Michigan philosophy graduate passed the Nevada bar examination and joined M & C as a litigator. She reports to Nevada office Partner in Charge Michael Nunez.

Sometimes litigation leaves little free time for its practioners, but Julie had never given up music. She volunteers her talents regularly for the Henderson, Nev., Symphony Orchestra. She also is a "hard-core" animal lover, owning a 9-year-old Golden Retriever and a Beagle puppy. And, once in a while, she enjoys sketching and painting.

Murchison & Cumming to very pleased to have this multi-talented attorney join its ranks.

MURCHISON & CUMMING CHANGES LOCATION IN NEVADA

After several years at its original Las Vegas-area office, Murchison & Cumming has relocated to 6900 Westcliff Drive, Suite 600, Las Vegas, Nevada 89145, in the Bank of America building.

"The new office is located to help us serve not only Las Vegas and its many growing suburbs, but also the entire state of Nevada," Murchison & Cumming Partner in Charge Michael Nunez said. "We are proud of our new office and expect to be here a long time."

For any questions regarding M&C's Las Vegas office, please call Michael J. Nunez at (702) 360-3956, or mnunez@murchisonlaw.com.

**CONTRACTOR NOT LIABLE
IN MOLD MATTER**

Birman v. Goetzman



Physician plaintiff owned an ocean front condominium in Long Beach. Plaintiff alleged water intrusion from upstairs unit's master bath area, resulting in extensive mold and adverse health effects preventing plaintiff from working as a physician. Our client replaced the upstairs bathtub and shower enclosure.

Following our expert's testing of the bathtub and shower, M&C filed a Motion for Summary Judgment, which was joined by a defendant who earlier inspected the upstairs unit. The court granted our motion and the Joinder. The Homeowner's Association subsequently settled with the plaintiff. The estate of the owner of the upstairs unit proceeded to trial. The time for appeal of the Motion for Summary Judgment has passed.

Daniel G. Pezold, Michael J. Nunez and Adrian J. Barrio
Los Angeles

M&C CASE REVIEW**SUPERIOR COURT GRANTS MOTION FOR SUMMARY JUDGMENT IN FAVOR OF SUPERMARKET***Maya v. Jons Marketplace*

Supermarket customer Martha Maya claimed that she slipped and fell due to fluid that Jons Marketplace carelessly and negligently allowed to remain on the floor in one of the store's aisles. She alleged that the fluid constituted a dangerous condition, which Jons Marketplace knew or, in the exercise of responsible care, should have known existed in sufficient time to make the floor safe or warn shoppers of the danger.

On December 10, 2007, Judge Charles Stoll of the Glendale branch of the Los Angeles Superior Court granted the Motion for Summary Judgment filed on behalf of Jons Marketplace because the evidence demonstrated that Jons Marketplace had no knowledge of a dangerous condition nor did they have constructive notice and they reasonably exercised the duty of care owed by conducting hourly inspections.

On the date of the alleged incident the subject aisle was formally inspected pursuant to store procedures shortly before plaintiff's alleged fall; however, no potential hazardous conditions were observed or discovered at that time and no employee was notified or aware of the dangerous condition prior to plaintiff's slip and fall. The plaintiff could not establish a prima facie case of negligence based on premises liability because she could not produce substantial, let alone sufficient, evidence that Jons Marketplace breached its duty of care.

Guy R. Gruppie, Nanette Reed and Anastasia K. Mazzella
Los Angeles

**BAD FAITH CLAIM OVERRULED WITH SUMMARY JUDGMENT***Hussain Shaikh v. Century Surety Company*

Shaikh owns a warehouse in Carson, which he leased to a fabric dyeing company, Spectra USA Print, Inc. Century Surety insured Spectra, and Shaikh was an additional insured. Shaikh and Spectra had a long history of litigation over payment of the rent.

Shaikh had obtained a lien on Spectra's machinery, etc. as security for the lease. Century Surety issued a property insurance policy to Spectra. Shaikh was an additional insured. Spectra stopped paying rent and subsequently moved out of the warehouse and shipped all of the machinery and extensive electrical equipment to Korea. Century Surety's policy was cancelled for non payment of premium several months before Spectra moved out of the warehouse.

Shaikh made a claim for damage to the warehouse, which was denied for a number of reasons, including the fact that the policy was not in force at the time of the claimed loss. Shaikh claimed the policy was in force because, even though notice of cancellation was given to Spectra, it was not given to Shaikh. Shaikh sued Century Surety for Breach of Contract and Breach of the Implied Covenant of Good Faith and Fair Dealing. We obtained a summary judgment in favor of Century Surety and against Shaikh.

Carolyn A. Matthews
Los Angeles, CA

M&C CASE REVIEW**HOTEL BEL-AIR NOT LIABLE FOR ALLEGED WEDDING RECEPTION FALL***Weintraub v. Hotel Bel-Air*

A Los Angeles Superior Court judge has thrown the case of a wealthy real estate developer who claimed that he had slipped and suffered severe injuries during a wedding reception at the posh Hotel Bel-Air out of court.

Judge Linda Lefkowitz granted the hotel's motion for summary judgment against Alvin Weintraub because he could not establish that the hotel created, or knew of, any substance that purportedly existed on some stairs adjacent to the area of the wedding ceremony that he attended on Nov. 15, 2006. Murchison & Cumming Senior Partner Guy R. Gruppie and Associates Megan R. Peitzke and Anastasia K. Mazzella successfully argued that the stairs included all appropriate anti-slip materials and could not, as a matter of law, be considered a dangerous condition. Plaintiff testified at deposition that he thought he slipped on water, but he was never able to confirm what substance, if any, was involved in his accident.

Weintraub, 64, claimed permanent injuries to his neck, back, hips and legs and testified that he was unable to participate in several lucrative real estate deals because of the incident. As such, he was expected to seek several hundred thousand dollars in damages if the matter proceeded to trial.

John C. Torjesen, President of the Consumer Attorneys Association of Los Angeles in 2007, represented plaintiff. Mr. Weintraub's recent Motion for Reconsideration was denied.

Guy R. Gruppie, Megan R. Peitzke and Anastasia K. Mazzella
Los Angeles, CA

**M&C RECEIVES FAVORABLE JUDGMENT IN PROPERTY DISPUTE**

Murchison & Cumming recently received a judgment in favor of clients who were defendants in an action for Nuisance, Damages and Seeking Injunctive Relief.

The dispute was between two neighbors who owned homes in the Windsor Square area of Los Angeles. The plaintiff sued her neighbors, claiming that a portion of their home, which was built and permitted in 1948, encroached onto her property. In addition to this claim, the plaintiff asserted at trial that trees, plants and other foliage between the two properties constituted a nuisance and had caused her harm including damage to a garage structure that had been built in the 1920's for which she sought a Mandatory Injunction and damages. Partner Robert Panman was lead counsel for defendant.

Robert H. Panman
Los Angeles, CA

M&C WELCOMES**SAN DIEGO JURY AWARDS ALMOST \$200,000
LESS THAN DEFENSE OFFER TO COMPROMISE
IN ADMITTED LIABILITY CASE**

Plaintiff Klingler was an active duty Marine, injured during the course and scope of his training with the United States Marine Corps. He was prevented from suing the United States Marine Corps because of the Ferris Doctrine but not, over objection, from pursuing the contractor he charged was responsible for his injury.

Strategic Operations was hired by the United States Marine Corps to enhance the training environment for mock training scenarios. Rocky Mohsen, an employee role-player for co-defendant Strategic Operations, had been on the job for about two weeks when he was asked by a Sergeant of the U.S. Marine Corps to participate in an impromptu interrogation-training scenario. The United States Marine Corps had declared plaintiff captured and bound, gagged and blindfolded private Klingler.

During the course of the interrogation, Mr. Mohsen fired his plugged AK-47 weapon loaded with blanks too close to the leg of plaintiff and caused an injury by the discharge of expelled gasses. Plaintiff underwent two debridement surgeries and alleged he was caused a nerve injury, which resulted in a chronic pain problem, requiring heavy usage of narcotic medications. Plaintiff also alleged posttraumatic stress disorder associated with the injury.

The San Diego jury determined that plaintiff had not been entirely truthful in his testimony, largely based on a subrosa video showing him changing a flat tire, and Myspace downloaded videos showing plaintiff shooting weapons and singing drunk karaoke. The jury found the United States Marine Corps 75% responsible for the accident and Mr. Mohsen was found 25% responsible on the admitted negligence cause of action, but the jury returned defense verdicts on Battery and Intentional Infliction of Emotional Distress causes of action.

Plaintiff's net award was \$55,750. Murchison & Cumming's client, and co-defendant, had collectively offered plaintiff \$250,000 by way of a Statutory Offer to Compromise. Plaintiff, whose lowest settlement demand was \$1.7 million, is likely to owe defendants after cost bill issues are heard by the court.

Jefferson S. Smith and Scott J. Loeding
San Diego



Lisa Angelo is an Associate, in the Los Angeles office of Murchison & Cumming, LLP and a member of the firm's Law and Motion practice group. Ms. Angelo focuses her practice in civil defense litigation and practices before all California State and Federal Courts. She is a graduate of San Diego State University (B.S.), Whittier Law School (J.D.) and George Washington University Law School (LL.M).

Jacqueline Nguyen is an associate in the Los Angeles office of Murchison & Cumming, LLP where she is a member of the General Liability Practice Group. Ms. Nguyen has experience in areas of business litigation, contract law, recovery of fraudulent conveyances and medical malpractice. She is a graduate of Chapman University (B.A.) and Arizona State College of Law (J.D.).



Maria Starn is an Associate in the Los Angeles office of Murchison & Cumming, LLP where she is a member of the Law and Motion practice group. Ms. Starn has previous experience in areas of general liability, intellectual property, toxic tort and construction defect. She is a graduate of the University of California, Irvine (B.A.) and the University of San Diego School of Law (J.D.).

M&C's NEW PRACTICE GROUPS**CLASS ACTION & CONSUMER LITIGATION**

Murchison & Cumming, LLP defends class actions and consumer-related lawsuits in a wide range of areas and businesses.

We have successfully represented clients in statewide and nationwide class actions, including in multi-district litigation (MDL). We have effectively brought early resolution to such cases, whether dismissing class action allegations at the pleading stages, defeating class certification motions, or negotiating settlement terms favorable to our clients.

Recognizing the high stakes involved for our business clients in these multi-plaintiff cases, we use an interdisciplinary approach whereby we offer our business clients a team of attorneys with expertise in such areas as consumer claims, unfair business practices, false advertising, products liability, environmental law, transportation, employment and labor, and insurance.

While we have the ability and preparedness to try these cases with experienced trial attorneys, we know that our business clients want immediate and effective solutions in these cases. Consequently, we employ law and motion proceedings and discovery tools to dispose of these cases at the pleading and class certification stages. Moreover, we undertake creative strategies and answers to obtain favorable settlements to protect our business client's objectives and needs. Finally, we offer experienced appellate practitioners, who are able to defend our clients at the state and federal levels.

LAW & MOTION

Murchison & Cumming, LLP understands that effective motion practice can be critical to early or favorable resolution of a case. Therefore, we offer our clients, lawyers, who concentrate their professional activities and skills in the area of law and motion. Such concentration brings both expertise and efficiency to the performance of sophisticated research, the preparation of top quality pleadings and motions, and the presentation of persuasive oral argument in a broad range of legal fields. In addition, we consult with and assist clients and outside trial counsel in pre-trial and trial matters, such as the preparation of dispositive motions, trial motions, and post-trial motions. Members of our group practice at both the state and federal levels.

APPELLATE LAW

The Appellate Group is composed of lawyers who concentrate their professional activities in the area of appellate practice. Such concentration brings both expertise and efficiency to the performance of sophisticated research and the preparation of top quality motions, briefs and appellate documents. This group handles appeals arising from, or in connection with, files assigned to the various litigation groups, as well as outside referrals. Pre-trial, trial and appellate consultation services are also available to litigants needing to ensure that issues are properly framed and preserved at trial and/or making decisions as to the merits of pursuing an appeal. In addition, Amicus Curiae briefings are prepared on issues of particular importance to our clients. Members of this group practice appellate advocacy in the California Supreme Court, State Court of Appeal and the United States Court of Appeal for the Ninth Circuit.

SERVICES & AFFILIATIONS

M&C PROVIDES MEDIATION SERVICES FOR INSURERS

Jean M. Lawler, Chair of the firm's Insurance Law practice group, has become a Certified Mediator, completing Pepperdine University's Program on Mediating the Litigated Matter. Recognizing that insurer v. insurer disputes are often best resolved outside of the court system, Ms. Lawler is available to assist the insurance industry in resolving insurer v. insurer disputes and lawsuits through mediation.

Please contact Ms. Lawler at 213-630-1019 or jlawler@murchisonlaw.com if you have any questions or interest in M&C's mediation services.

INSURANCE ROUNDTABLE

June 10, 2008

The Art of Settlement Negotiations & Dispute Resolution

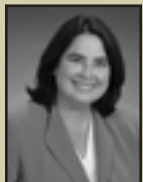
September 16, 2008

Coverage Issues in General Liability Cases

November 12, 2008

Construction Defect Claims

Join us for another year of this lively and informative series, presented by these leaders in Insurance Law:



Jean M. Lawler, Sr. Partner and Chair, Bad Faith & Insurance Litigation section of the Insurance Law Practice Group
Contact: (213) 630-1019 or jlawler@murchisonlaw.com



Bryan M. Weiss, Partner and Chair, Insurance Coverage & Appeals section of the Insurance Law Practice Group
Contact: (213) 630-1087 or bweiss@murchisonlaw.com

Time: Noon - 1:30 PM.
Lunch will be served.

Location: Murchison & Cumming, LLP
801 South Grand Avenue, 9th Floor
Los Angeles, CA 90017

Register now at www.murchisonlaw.com.

AFFILIATIONS

M&C is AV-rated by Martindale-Hubbell and listed in Best's Recommended Insurance Attorneys and The Insurance Bar. M&C attorneys are active in, and members of, numerous associations, including:

American Bar Association
American Board of Trial Advocates (ABOTA)
Association of Defense Trial Attorneys (ADTA)
Association of Southern California Defense Counsel
Business Clubs of America, Los Angeles
Council On Ethical Billing
Defense Research Institute (DRI)
Deutsch Amerikanischer Juristenvereinigung
Federal Bar Association
Federation of Defense & Corporate Counsel (FDCC)
International Association of Defense Counsel (IADC)
National Association of Elevator Contractors
Product Liability Advisory Council (PLAC)
Professional Liability and Underwriting Society (PLUS)
Property Loss Research Bureau (PLRB)
USLAW Network

M&C PROVIDES CA EMPLOYERS WITH SEXUAL HARRASSMENT TRAINING

Government Code section 12950.1 requires California employers with 50 or more employees to provide at least two hours of training and education regarding sexual harassment to all supervisors employed as of July 1, 2005. New hires and individuals promoted to a supervisory position must be trained within six months of assuming their position. Follow-up training is required once every two years.

The Employment Law group at Murchison & Cumming offers an interactive sexual harassment training seminar for California employers that fulfills this requirement and provides:

Information regarding the statutory provisions prohibiting sexual harassment and discrimination in the workplace;

Practical guidance concerning the prevention and correction of sexual harassment and discrimination, and;

Effective examples aimed at instructing supervisors in the prevention of harassment, discrimination and retaliation.

To schedule a training seminar, or for more information regarding employment practices, please contact Pamela J. Marantz at (213) 630-1070 or at pmarantz@murchisonlaw.com.

CONTACTS

ADMINISTRATIVE

Executive Director
Jasmine Young
jyoung@murchisonlaw.com
(213) 630-1022

Human Resources Director
Lynnmaria Bazan
lbazan@murchisonlaw.com
(213) 630-1050

Client Relations Director
Arleen Milian
amilian@murchisonlaw.com
(213) 630-1071

PARTNERS IN CHARGE

Los Angeles
Jean M. Lawler, Managing Partner
jlawler@murchisonlaw.com
(213) 630-1000

Orange County
Dan L. Longo
dlongo@murchisonlaw.com
(714) 972-9977

San Diego
Kenneth H. Moreno
kmoreno@murchisonlaw.com
(619) 544-6838

Northern California
Kasey C. Townsend
ktownsend@murchisonlaw.com
(925) 365-3170

Las Vegas
Michael J. Nuñez
mnunez@murchisonlaw.com
(702) 360-3956

PRACTICE GROUP CHAIRS

Appellate Law
Edmund G. Farrell
efarrell@murchisonlaw.com
(213) 630-1020

Business Litigation
Friedrich W. Seitz
fseitz@murchisonlaw.com
(213) 630-1000

Business Transactions
Jean M. Lawler
jlawler@murchisonlaw.com
(213) 630-1019

Class Actions & Consumer Litigation
Gina E. Och
goch@murchisonlaw.com
(213) 630-1027

Construction Law
Jean A. Dalmore
jdalmore@murchisonlaw.com
(213) 630-1005

Victor A. Lee
vlee@murchisonlaw.com
(213) 630-1015

Directors & Officers Liability
Kenneth H. Moreno
kmoreno@murchisonlaw.com
(619) 544-6838

Employment Law
Michael B. Lawler
mlawler@murchisonlaw.com
(213) 630-1010

Kenneth H. Moreno
kmoreno@murchisonlaw.com
(619) 544-6838

General Liability & Casualty
Guy R. Gruppie
ggruppie@murchisonlaw.com
(213) 630-1089

Health Law
Michael B. Lawler
mlawler@murchisonlaw.com
(213) 630-1010

Dan L. Longo
dlongo@murchisonlaw.com
(714) 972-9977

Insurance Law
Bad Faith & Insurance Litigation
Jean M. Lawler
jlawler@murchisonlaw.com
(213) 630-1019

Insurance Coverage & Appeals
Bryan M. Weiss
bweiss@murchisonlaw.com
(213) 630-1087

International Law
Friedrich W. Seitz
fseitz@murchisonlaw.com
(213) 630-1000

Law & Motion
Gina E. Och
goch@murchisonlaw.com
(213) 630-1027

Product Liability
Friedrich W. Seitz
fseitz@murchisonlaw.com
(213) 630-1000

Professional Liability
Dan L. Longo
dlongo@murchisonlaw.com
(714) 972-9977

Toxic Tort & Environmental Law
Scott L. Hengesbach
shengesbach@murchisonlaw.com
(213) 630-1088

Transportation Liability
Richard C. Moreno
rmoreno@murchisonlaw.com
(213) 630-1085

MURCHISON & CUMMINGS, LLP
OFFICE LOCATIONS

LOS ANGELES

801 S. Grand Ave., 9th Fl.
Los Angeles, CA 90017
(213) 623-7400

ORANGE COUNTY

801 Park Tower
200 West Santa Ana Blvd.
Santa Ana, CA 92701
(714) 972-9977

NORTHERN CALIFORNIA

200 Pringle Avenue, Suite 550
Walnut Creek, CA 94596
(925) 374-0944

SAN DIEGO

Symphony Towers
750 B. St., Ste. 2550
San Diego, CA 92101
(619) 544-6838

NEVADA

6900 Westcliff Drive, Suite 600
Las Vegas, NV 89145
(702) 360-3956

www.murchisonlaw.com

Murchison & Cumming, LLP
801 South Grand Avenue, 9th Floor
Los Angeles, California 90017