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California Case Law Quarterly

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Scope Of Employment and the Limitations of the Going and Coming Rule

By Dave Tate
Associate Attorney/Staff Writer

Pursuant to the theory of respondeat superior an employer is vicariously liable for a tortuous act, such as a vehicle accident, that is committed by its employee if the act is committed in the scope of employment. However, under the "going and coming" rule an employer is generally exempt from liability for a tortuous act such as a vehicle accident committed by an employee while he or she is on the way to or from work because in that circumstance the employee is deemed to be acting outside the course and scope of employment. A standard exception to the going and coming rule arises where the use of the vehicle gives some incidental benefit to the employer. The Court in *Lobo v. Tamco* (California Court of Appeal, Fourth Appellate District) recently demonstrated how difficult it can be for a defendant employer to sufficiently establish on a motion for summary judgment that the employer did not receive some incidental benefit from its employee who had driven his personal car to work and was on his way home when the accident occurred.

In *Lobo v. Tamco* employee Del Rosario was leaving the premises of his employer. As he pulled out of the driveway he failed to notice three motorcycle deputies approaching. Deputy Lobo collided with Del Rosario's car and died. A lawsuit was filed by Lobo's widow and minor daughters. Del Rosario's employer Tamco argued that Del Rosario was acting outside the course and scope of employment at the time of the accident. The trial court granted Tamco's motion for summary judgment.

The Court of Appeal reversed holding that there was a triable issue of fact whether Del Rosario was in the course and scope of employment at the time of the accident. The key issue was whether there was an incidental benefit derived by Tamco by the fact that Del Rosario drove his car to work. An exception to the going and coming rule has been referred to as the "required-vehicle" exception. The exception can apply if the use of a personally owned vehicle is either an express or implied condition of employment, or if the employee

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Emerging Trends in Tire Litigation

By Rich Dana
Associate Attorney/Staff Writer

The question of when a tire should be replaced is one that is rarely given thought…tires are typically replaced when the tread is worn out or when there is obvious damage. However, a slowly emerging trend suggests that tires may eventually come with an expiration date that will impose a requirement for automotive shops to recommend replacing tires based solely on their chronological age, regardless of whether the tires are showing any visual signs of wear, damage or aging.

At one point, warnings based on the age of tires were unnecessary. A tire would typically wear out long before the tire was considered "worn out." The quality of tires has increased dramatically in the last twenty years, which allows them to last longer. Tire replacement recommendations based on age began appearing in Europe in the 1990's. Now, many vehicle and tire manufacturers have listed age recommendations for tires, ranging from 6 to 10 years. Some include statements to the effect that "tires age even if they are not being used." (VW Owner's Manual 2001, p.57.) The effect these recommendations can have on claims is predictable – in any case where a crash involves a tire that is in excess of six years, lawsuits will

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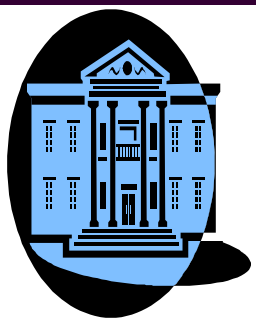

Scope Of Employment and the Limitations of the Going and Coming Rule

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has agreed, expressly or implicitly, to make the vehicle available as an accommodation to the employer and the employer has reasonably come to rely upon its use and to expect the employee to make the vehicle available on a regular basis while still not requiring it as a condition of employment.

Del Rosario was employed by Tamco for 16 years as its manager of quality control. According to his written job description, one of his responsibilities is to answer all customer complaints and if necessary, visit customer's facilities to gain information and/or maintain customer relations. If a customer called with quality concerns, Del Rosario would accompany a sales engineer to the site so that he could answer any technical questions. The company did not provide a company car for that purpose. Although Del Rosario would most often ride in the sales engineer's car, he did on occasion use his own car for that purpose if no sales engineer was available. When Del Rosario used his own car to visit a customer site, he was reimbursed for mileage.

Del Rosario testified that he had visited customer sites very few times during the 16 years he worked at Tamco. The accident occurred in 2005. Between 2004 and mid-2006 Del Rosario used his car for site inspections only two or three times.

Del Rosario's physical presence was essential when a customer had quality complaints because he was the sole employee with the expertise to determine whether products were defective. The evidence indicated that Tamco did not provide Del Rosario with a company car in part because of the infrequency of customer complaints, and it did not provide a company car to employees of his level.

When Del Rosario left Tamco on the day of the accident, he was going home. However, Del Rosario testified that if he had been asked to visit a customer site, he would have gotten in his car and used his car to go to the facility just like on any other day. He also kept boots, a helmet and safety glasses in his car.

The Court held that the evidence is clearly sufficient to support the conclusion that

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A standard exception to the going and coming rule arises where the use of the vehicle gives some incidental benefit to the employer

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Emerging Trends in Tire Litigation

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assuredly be filed against all shops that had the opportunity to advise the vehicle owner to replace the tires.

In a case Cholakian & Associates is handling, the plaintiff filed a lawsuit against a tire repair for failing to advise her to replace a tire that was older than average even though, by all accounts, the tire was in good condition. The shop rotated the tires on plaintiff's vehicle a year before plaintiff was involved in a serious accident that occurred when one of the tires on her vehicle experienced a partial tread separation. This tire was older than average – it was 11 years old when it was in the repair shop and 12 years old at the time of the accident. However, the tire only had about 30,000 miles on it at the time of the accident. At the time the repair shop inspected the tire, both the vehicle manufacturer and tire manufacturer's stated position was that tires do not have any chronological age limit. Nevertheless, plaintiff contends the shop should have warned her based on tire age recommendations provided by other manufacturers.

Currently, the chronological age of a tire can be found via the last four digits (or three for tire manufactured before 2000) of the dot stamp. The first two digits represents the week of manufacture. The last two digits represent the year of manufacture. While these digits allow a consumer to determine the age of the vehicle, this is arguably not common knowledge. We expect that tires may ultimately come stamped with additional language that clearly provides an expiration or "do not use after" date. This seems the easiest way to harmonize the age of a tire with a recommendation for tire replacement. While this sounds easy in practice, it is likely a costly change for the manufacturer. In addition, it is likely going to provide an additional basis for negligence claims against repair shops and even vehicle owners should a tire blow out after its age recommendation.

Underwriters need to have a heads up that repair shops are on top of this changing trend.

Federal and State Record Retention Policies for Truck Companies

By Colin Hatcher
Special Counsel/Staff Writer

Preservation of documents is an important issue in trucking related personal injury/ wrongful death litigation. Given the 2-year statute of limitations on personal injury in California, the time lapse between an accident and the lawsuit being filed can be as long as 2 years. By then, in the absence of any notice to preserve evidence, many documents can be destroyed by a truck company that does not realize the significance of retaining documents, and is simply following state and federal procedure.

Most vulnerable to the 2-year statute of limitations (and thus most likely to be lost without quick action by the attorney) are Driver Vehicle Inspection Records (DVIRS). Per federal law (49 CFR 396.11(c)) these daily "walk-around" vehicle inspection records only have to be retained for 3 months. Also highly vulnerable are the Driver's Daily Logs (DDLs). Per Federal law (49 CFR 395.8 (k)) these records of the driver's daily hours and route chronology are only required to be held for a mere 6 months. By the time a lawsuit is filed, both DVIRs and Driver's Daily Logs are often long gone. DDLs are probably the single most important trucking document to preserve, as driver fatigue and exceeding driver daily hours are common contentions made by Plaintiffs in trucking litigation.

Less vulnerable than DVIRs or DDLs, but still vulnerable to innocent destruction, are the truck company's Vehicle Repair Records (must be held for 18 months, per 49 CFR 396.3 (c)(2)) and its Yearly Periodic Vehicle Inspection Records (must be retained for 14 months, per 49 CFR 396.21(b) (1)). In any trucking accident involving mechanical factors (truck mechanical defects, e.g., brakes, lights, etc.) the truck company's record of vehicle maintenance and repair is critical in showing a proper maintenance schedule was followed. After 2 years it is not uncommon for the attorneys to hear "But by law we only have to keep these for 14 months…" as the explanation as to why critical evidence has been discarded.

The above four categories of documents are the ones most at risk in a 2-year wait until a lawsuit is filed. 7 other federal and state mandated record categories are more likely to survive the 2 year statute. Their retention periods run from 1 year to driver's employment plus 3 years:

• Negative drug tests or alcohol tests of lower than 0.02% - retain for 1 year: 49 CFR 382.401(b)(3)
• 90 Day vehicle inspection records, per California Vehicle Code 34505.5(a) – retain for 2 years: VC 34505.5(c)
• Accident Register - retain details of each accident for 3 years following accident: 49 CFR 390.15(b); and
• Positive drug tests or alcohol tests of 0.02% or higher, and/ or Driver's refusal to be tested - retain for 5 years: 49 CFR 382.401(b)(1)
• Driver Qualification File - retain for Driver's employment PLUS 3 years: 49 CFR 391.51(c)
• Driver Investigation History File - retain for Driver's employment PLUS 3 years: 49 CFR 391.53(c)
• Driver's yearly DMV record review - retain in Driver Qualification File - retain for Driver's employment PLUS 3 years: 49 CFR 391.51(c); 49 CFR 391.25(c)

Fast proactive work is needed by law firms the moment an accident is learned of. Left to their own devices our truck companies innocently routinely destroy records as they see the state and federal retention dates trip. If a law firm gets a file concerning an accident that happened 7 months ago, DVIRs and DDLs may already have been destroyed.

At Cholakian & Associates we take rapid proactive steps to identify, locate and acquire custody of all truck-related documents as soon as we learn of an accident, regardless of whether there is litigation or not. We issue immediate notices to preserve documents to our own insureds, we explain to our clients the significance of extending document retention beyond state and federal requirements, and we direct our field investigators get down to the truck company premises as quickly as possible to collect all relevant documents for preservation for any pending lawsuit. In this way, by issuing clear and

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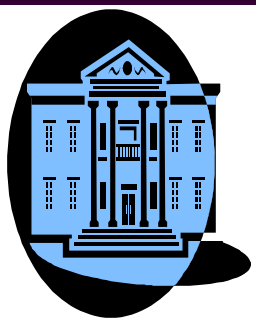

Scope Of Employment and the Limitations of the Going and Coming Rule

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Tamco required Del Rosario to make his car available whenever it is necessary for him to visit customer sites and that Tamco derived a benefit from the availability of Del Rosario's car. Tamco argued that it was rare that Del Rosario visited customer facilities or job sites, and that in all cases in which the required-vehicle exception to the going and coming rule has been found applicable, driving was an integral part of the employee's job and that Del Rosario's occasional use of his own car to visit customers is insufficient as a matter of law to invoke the exception.

The Court held that if the employer requires or reasonably relies upon the employee to make his personal vehicle available to use for the employer's benefit and the employer derives a benefit from the availability of the vehicle, the fact that the employer only rarely makes use of the employee's personal vehicle should not, in and of itself, defeat the plaintiff's case. The availability of Del Rosario's car provided Tamco with both the benefit of insuring that Del Rosario could respond promptly to customer complaints even if no sales engineer was available to drive him to the customer's site and the benefit of not having to provide him with a company car. Thus, the Court held that based on the evidence a reasonable trier of fact could find that the "required-vehicle" exception does apply, and the motion for summary judgment was improperly granted.

The bottom line is that when an employee uses his personal vehicle for business purposes from time to time, it may be difficult for an employer defendant to prevail on a "not within the course and scope of employment" argument on a motion for summary judgment. However, the motion should still be brought in appropriate circumstance, and, of course, the argument remains viable at trial.

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Recent Trial Update—Mary Smith v. Anthony Rose San Mateo Superior Court—Wrongful Death Defense Verdict

By David Crowe
Associate Attorney/Staff Writer

On May 25, 2007, Rodney Smith, retired CEO of Altera Corp. was riding a bicycle on Sand Hill Rd when he collided with a vehicle driven by defendant Anthony Rose, age 87. Smith and Rose were both traveling eastbound on a windy part of the road, between I- 280 and Whiskey Hill Rd. It was reported that Rose drifted into the bike lane and knocked Smith 50 to 60 ft. Smith died upon impact from a brain stem injury. Smith's widow and daughter sued Rose. Mary Smith, with an estimated net worth of $300 million hired Terry O'Reilly of O'Reilly & Collins and a host of experts to prove her that her husband was not the cause of his own death. Kevin Cholakian & David Crowe defended Anthony Rose.

The plaintiffs alleged motor vehicle negligence and wrongful death. An accident reconstruction expert for the plaintiffs stated that the lack of skid marks indicated that Rose turned his car into Smith. He also stated that trajectory analysis showed that the vehicle was in the bike lane at the time of the incident. A biomechanics expert for the plaintiffs determined that the angle of the accident supported the theory that the vehicle turned into the bicycle. The defense experts testified the evidence supported that the decedent bicyclist turned into Rose's lane of travel.

Rose testified he did not turn or drift into the bike lane, and claimed that Smith made an unexpected U-turn from the lane into traffic, coming into the path of his car. Rose stated that he was going between 30 and 35 mph, when Smith suddenly looked over his left shoulder and turned into traffic, and that Rose had no time to react. An accident reconstruction expert for the defense stated that the car's broken right headlight, along with the two large round dents in the front, right panel, in addition to damage to the bike, supported Rose's account of the event. The defense experts also showed that if Rose had hit Smith, his car would have landed in the embankment.. The report by the California Highway Patrol also supported Rose's claim, citing Smith with a vehicle code violation, and indicating the accident location was where Smith and his wife routinely made U-turns on their way home.

Demand: $1,100,000 - Policy limits
Offer: $150,000

The jury rendered a 9-3 Defense verdict as to all of Plaintiffs' claims after 12 hours of deliberation following a one month trial. The Court awarded and the Cholakian firm recovered $100,000 in CCP 998 costs from Mrs. Smith for the defense carrier, State Farm.

This case was recently written up by California Jury Verdicts as one of the top "Defense" verdicts of 2009.

Federal and State Record Retention Policies for Truck Companies

(Continued from page 3)

express notices to preserve documents to our own truck company client, and by getting on top of the issue immediately, we avoid the problems caused later in litigation when an accusation of spoliation of evidence is made by the opposing counsel.

SPOLIATION OF EVIDENCE

The consequence of a willful failure to preserve documents is a motion by opposing counsel to the court for evidence sanctions. The standard is high—opposing counsel must be able to show a willful or negligent disregard of a notice to preserve evidence—but if found the consequences can be substantial. In theory, if the court finds that vital evidence was deliberately or negligently destroyed after express notice to preserve as given, and if that evidence was essential for a Plaintiff to be able to prove a fact in the case, the court could order the fact to be established beyond dispute. Even if the court does not go that far, the Defendant who destroys evidence is subject to the Evidence Code 412 jury instruction:

"If weaker and less satisfactory evidence is offered when it was within the power of the party to produce stronger and more satisfactory evidence, the evidence offered should be viewed with distrust."

Clearly, in the absence of any notice to preserve from opposing counsel, a truck company destroying documents will have as a defense that it was complying with the retention law. However, while it is reasonable to assume that a truck company with a driver who was involved in a serious accident will exercise caution and will not thereafter destroy documents that could be vital to either the Plaintiff's or the Defendant's case, these things do not just happen on their own and require proactive work by Defense counsel to make sure documents are in fact properly preserved.

Recent Trial Update—Perdido v. Cruz Plumbing
Alameda County Superior Court—Wrongful Death Defense Verdict

By Kevin Cholakian

On April 6, 2005, plaintiffs' decedent Marcelino Perdido, 82, was doing yard work at his Castro Valley residence, which was next to a house owned by Ruben Cruz of Cruz Plumbing.

Earlier that morning, Huber Ramirez parked a truck in front of Cruz's home. After loading toilets into the back of the truck, Ramirez and Cruz's stepson walked to the parked truck, approaching from the rear. After Ramirez started the vehicle and began to drive away, he felt a bump. He stopped the truck and found Perdido lying on the roadway near the curb. Ramirez testified that he exited his truck, approached Perdido and asked if he was okay. He claimed that Perdido did not respond, but got up and began walking toward his house. Ramirez contended that he initially thought Perdido was fine and drove away, but returned moments later to find that he was dead.
Perdido's widow and six grown children sued Ramirez and Cruz Plumbing for wrongful death, motor vehicle negligence and vicarious liability.

Plaintiffs were represented by Rick Simmons and Martin Jaspovice. Defendants were represented by Kevin Cholakian and assisted by David Crowe.

Plaintiffs' counsel claimed that Ramirez failed to see Perdido before driving the truck The lawyers additionally claimed that Ramirez was under the influence of methamphetamines and that Ramirez was in the course and scope of his employment with Cruz Plumbing. The plaintiffs asserted that Perdido could not have gotten up after being run over and that Ramirez negligently left the scene despite knowing that he had run over Perdido.

The defendants did not dispute the cause of Perdido's death, but claimed that Perdido was squatting in front of the truck so as not to be seen when Ramirez pulled away from the curb. They also claimed that Ramirez did not immediately know that he had hit Perdido. Ramirez and Cruz's stepson testified that they did not see Perdido as they approached the vehicle or after they were seated.

Cruz Plumbing denied that Ramirez was a company employee, arguing that Ramirez was merely helping a friend deliver materials to job sites with his truck, as he had on several occasions without payment.

The defense brought a motion to exclude evidence of a drug test taken 31 hours after the accident with a positive result for cocaine and methamphetamines. The motion was denied and Ramirez testified that he took some cocaine after the accident, but no methamphetamines.

Demand: $1,000,000
Offer: $450,000
The Alameda jury rendered a 9-3 Defense verdict as to causation—finding defendants negligent in leaving the scene but not the accident itself after 10 hours of deliberation following a 4 week trial. CCP 998 costs of $61,000 were awarded to the Defense carrier, State Farm. This case is on appeal.

Recent Trial Update

CHEUN HEE LEE v. SOUTH BAY AIRPORT SHUTTLE
DEFENSE VERDICT—PERSONAL INJURY—BRAIN INJURY
SANTA CLARA COUNTY
4 WEEK JURY TRIAL

By Kevin Cholakian

The subject motor vehicle accident occurred on March 25, 2005 at 2:40 p.m. between a 1999 Dodge Ram van owned by Defendant. SOUTH BAY AIRPORT SHUTTLE and driven by its employee, RESTITUTO LARENA, and a 1999 Toyota Sienna, driven by William Lin, who was not a party to the lawsuit. As Mr. Larena approached the Lawrence Expressway and El Camino Real intersection, Mr. Lin was driving in the left lane. When traffic ahead of him came to a stop, Mr. Lin stopped, but Mr. Larena was unable to stop and the shuttle van impacted the rear of the Sienna.

Plaintiff contends that as a result of the impact two passengers, including plaintiff, CHEUN HEE LEE, were propelled to the floor. Mr. Lee claimed he hit his head and was unconscious as a result of hitting his head. Another passenger also hit the floor and was rendered unconscious. Although Mr. Larena knew his passengers remained on the floor, he did not notify 911. He told two people that he would phone 911, but did not get through. Rather, he drove to a liquor store to buy water for Mr. Lee. He did not secure aid for his passengers, as required by his non-delegable duty as the operator of a common carrier motor vehicle. Despite his passengers' plea for aid, it was nearly an hour between the time of the accident and Mr. Larena's arrival with his passenger to the E.R. at Santa Clara Valley Medical Center, 3 miles away.

Mr. Lee contended he was not seat belted at the time of the accident and claimed he flew into the dashboard, rebounded and ended up on the floor behind the driver's seat. Mr. Lee claimed he was not belted because the driver was lost and he needed to move closer to the driver to be understood. Mr. Lee had a Master Degree in English. Mr. Larena spoke minimal English and was of Filipino decent. Defendant's expert Rajeev Kelkar, PhD testified the impact was at a low Delta-V and Mr. Lee possibly bumped his head on a padded seat back. Dr. Kelkar further testified that Mr. Lee would not have sustained any injury if he had been wearing his seatbelt at the time of the accident. Mr. Larena denied seeing Mr. Lee hit the floor until after he returned to the van following an exchange of information. Plaintiff's expert, Laura Liptai, PhD testified that as a result of the impact, it was possible Mr. Lee sustained a concussion when his head impacted the seat back.

Plaintiffs were represented by four attorneys at trial (Eileen Simon, Kristen Barranti, Mary-Margaret Bierbaum, and Laura Liccaido). Defendants were represented by Kevin Cholakian and assisted by David Crowe.

Defendants admitted liability at trial for the rear end accident.

Plaintiff claimed treble damages under Civil Code §3333.7, based on allegations that defendant driver was under the influence of drugs and alcohol at the time of the accident and that defendant South Bay Shuttle willfully failed to do mandatory drug and alcohol testing. Mr. Larena was never tested after the accident.

Mr. Lee claimed he sustained a concussion in the accident that resulted in a post concussive syndrome that interfered with his ability to function after the accident. His doctors claimed that this then led to a deterioration of his mental status following the accident leading to total disability, which they deemed permanent. As a result, Mr. Lee was unable to work as a dental technician and has, since the accident, required a full time caretaker. It was undisputed at trial Mr. Lee has a severe psychiatric impairment and that impairment never exhibited itself prior to the accident.

Following the accident, Mr. Lee was initially seen in the emergency room at Kaiser Santa Clara, where he reported being in an accident. He was diagnosed with a concussion. Mr. Lee returned

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Recent Trial Update con't

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to the emergency room the following day complaining of right shoulder/arm pain and dizziness. Dr. Librian diagnosed a post concussive headache based on solely on the subject reports by Mr. Lee.

Mr. Lee was subsequently seen by a chiropractor and Dr. John Cantwell at St. Thomas Clinic for headaches, back complaints and anxiety. Beginning in August 2005, Mr. Lee was seen at a variety of psychiatric institutions including, John George Psychiatric Pavilion, Sasual Creek Outpatient Stabilization Clinic and the Asian Community Mental Health Center in Oakland. Mr. Lee was eventually referred to Santa Clara Valley Medical Center, by Ralph Kiernan, a Stanford neuropsychologist, where he received outpatient rehabilitation treatment for his alleged traumatic brain injury. He was admitted to the brain trauma unit, and was treated by a multi disciplinary unit for brain injury for 2 years prior to trial.

Dr. Ralph Kiernan, Dr. Peter Cassini, and Santa Clara Valley Medical Center Director Dr. Malcolm Lawton testified as a result of the concussion received in the accident, Mr. Lee developed post concussive problems that led directly to his mental deterioration and resulted in his permanent disability. Mr. Lee's treating psychiatrist at Santa Clara Valley Medical Center further testified Mr. Lee suffered from post traumatic stress due to the after effects of the accident and not having immediate treatment.

Defendant's expert, Dr. Jonathan Mueller, a psychiatrist and neurologist, testified Mr. Lee suffered from a serious psychosis due to a slow insidious change in his central nervous system not caused by any head trauma, which may have been received in the accident. Dr. Mueller further testified, Mr. Lee had a series of pre-accident stressors including a divorce that was hidden from his family, lack of communications with his family, a serious long standing heart condition ,work on a Ph.D. thesis, death of his parents and sister, and increasingly serious financial difficulties that led to his eventual psychiatric diagnosis of schizophrenia .

Carol Walser, Ph.D a neuropsychologist testified for defendants that the neuro-psychological testing done on Mr. Lee was simply not consistent with traumatic brain injury, and there was evidence of malingering. Dr. Walser testified the cause of Mr. Lee's significant psychiatric problems was not caused by the accident in question, but rather was a combination of factors including psychophrenia.

A possible turning point in the trial (based on juror interviews) was subrosa surveillance that reflected Mr. Lee on crutches, but using in a non anatomic way and a very strong cross exam of Dr. Lawton who conceded the delta v inpact speed was not likely great enough for brain trauma—contrary to the other retained Plaintiff doctors. Mr. Lee's case was that a very high functioning individual suddenly had underlying psychosis triggered by a concussive depressive affect resulting from this accident. The defense case was premised on showing that Mr. Lee's family and major financial setbacks all occurred at about the same time as the accident and were more of a trigger of Mr. Lee's underlying psychosis than this accident.

Mr. Lee demanded $1,450,000 pursuant to CCP 998—Policy limits demand. Defendants offered $150,000 with an indication of up to $250,000. Plaintiff dropped his demand just before trial to $900,000.

The jury rendered a 10-2 Defense verdict as to all of Plaintiff's claims after 2 hours of deliberation following a 4 week trial. $210,000 in costs have been awarded the defense. Plaintiff has now filed an appeal.

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Memberships :
Defense Research Institute (DRI)

International Association of Defense Counsel

Northern California Association of Defense Counsel

American Bar Association

San Mateo Bar Association

Bar Association of San Francisco

Alameda County Bar Association

San Francisco Trial Lawyers Association

California Trial Lawyers Association

National Association of Subrogation Professionals (NASP)
Chair in California

Trucking Industry Defense Association (TIDA)

San Francisco Defense Association
(President 2001-2009)

Italian and Armenian American Bar Association

Cholakian & Associates is listed in Best's Insurance Directory, has been AV rated by Martindale-Hubbell since inception, and is retained defense counsel to a half-dozen major insurance companies doing business in California. This practice includes, though it is not limited to, the representation of carriers regarding commercial and personal lines claims as well as the defense of insureds involved in serious personal injury, catastrophic trucking accident litigation, complex commercial litigation, product liability/fire subrogation matters and coverage litigation. This includes defense of matters involving allegations of construction defects, mold related claims, inter and intrastate trucking, commercial landlord/tenant, environmental liability, professional liability, including insurance agents, labor and employment law, officer's and director's liability, and uninsured/underinsured motorist matters. The attorneys in this practice group have significant litigation experience, with emphasis on high exposure cases.

UPCOMING EVENTS

August 26, 2010 – San Mateo County Superior Court Judge (Complex Litigation) Steven Dylina will be San Francisco Defense Associates President Kevin Cholakian's guest speaker at a SFDA luncheon.

October 2010—Congresswoman Jackie Speier will be San Francisco Defense Associates President Kevin Cholakian's guest speaker at a SFDA luncheon.

November 8-10, 2010—TIDA (Trucking Insurance Defense Association) annual meeting in Orlando Florida

For more information about these events, please contact Millisa Coe at (650) 871-9544 ext. 200

Kevin K. Cholakian a native Californian, who grew up on a family farm in the Central San Joaquin Valley, attended North Carolina School of the Arts in Winston-Salem, North Carolina his senior year of high school 1971-72 on a full scholarship. He then attended San Francisco Conservatory of Music on a Ford Foundation Scholarship from 1972-1974. He graduated magna cum laude with a B.A. in Philosophy from CSUF, in 1977. From 1976 to 1978, he served as Chief Administrative Assistant to California State Senator Rose Ann Vuich (first woman elected to the California State Senate serving Central California) managing the Senator's Central Valley field offices stretching from Modesto to Bakersfield. He received his law degree from the University of California, San Francisco Hastings College of the Law in 1981where he was on Law Review and which he attended on scholarship. Mr. Cholakian began his legal career practicing with the litigation sections of Littler, Mendelson, Fastiff & Tichy and McCutchen, Doyle, Brown & Enersen (Bingham-McCutchen) in San Francisco. He became an equity partner and managed the defense practice of an AV rated 25 attorney San Francisco insurance defense firm (1988 through 1999). He began Cholakian & Associates in January 2000 and has continued to specialize in high exposure personal injury defense, product liability/fire liability matters, environmental, coverage and employment/housing discrimination matters. He is a Northern California Super Lawyer under the Personal Injury Defense and Environmental Defense categories. He was awarded "Gladiator of the Year" in 2006 and 2009 by Farmers/Zurich for trial accomplishments and awarded the Values and Vision Medallion by the Director of Commercial Claims in 2008. Mr. Cholakian regularly defends cases that have exposures in excess of $1,000,000.00.

Mr. Cholakian is a member of the following organizations: Defense Research Institute (DRI), the International Association of Defense Counsel, the Northern California Association of Defense Counsel, the American Bar Association, the San Mateo Bar Association, Bar Association of San Francisco, the San Francisco Trial Lawyers Association, the California Trial Lawyers Association, National Association of Subrogation Professionals (former San Francisco Chapter President) (NASP), and Trucking Industry Defense Association (TIDA). Mr. Cholakian is the current President of the San Francisco Defense Seminar Association, a 40 year old organization comprised of defense litigators. Mr. Cholakian sits on the Executive Committee of the Board of Governors of the City Club of San Francisco, where he also chairs the Food, Wine and Cigar subcommittee.