

# Merced County Bar Association



Volume 3, Issue 4

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April 2019

## PRESIDENT'S COLUMN

**Thomas Min**  
MCBA President

Please join us for Law Day on Thursday May 2, 2019 between 9:30 am to 1 pm. Please see the "Calendar of Events" section on page 2 for more details.

We want to thank you all who attended our April luncheon with Carlos Fuentes, Esq. and Andrea Fatone, Esq. on The Intersection of Criminal Law and Immigration Law. They provided a very interesting and complex discussion issues of attorney duties to their client in criminal prosecutions that may have immigration repercussions for the client.

We want to thank all of you who attended our March luncheon with Judge Bacciarini and Commissioner Foster: Small Claims Court and Civil Law Update.

## 2019 MCBA OFFICERS

**Thomas Min, President**  
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**George Leavell, VP**  
[george@georgeleavell.com](mailto:george@georgeleavell.com)

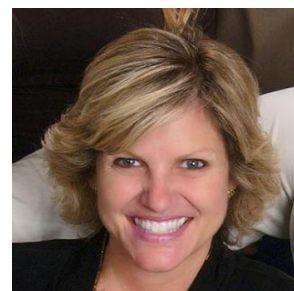
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[skye@merceddivorce.com](mailto:skye@merceddivorce.com)

**Sara Rosenthal, Treasurer**  
[rosenthalsr@gmail.com](mailto:rosenthalsr@gmail.com)



## FAMILY LAW SECTION NEWS

by Casey Aitchison



Effective January 1, 2019, Civil Code Section 1542 has been amended to include a slight but significant change.

Previously, Civil Code Section 1542 read: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor." Amended Civil Code Section 1542 now reads: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

The amended version of the Code adds "releasing party" and "released party," and also changes "must have materially affected" to "would have materially affected" the releasing party's decision to settle.

Although the legislative history indicates that the legislature did not intend a substantive change of existing law, a Court could conclude that "would have materially affected" is a lesser standard than "must have materially affected." Thus, Marital Settlement Agreements lacking an express waiver of Civil Code Section 1542 may now be more vulnerable to attack as applied to unknown claims. As such, Family Law Attorneys should ensure that their Marital Settlement Agreements include an express waiver of Civil Code Section 1542, as recently revised.

We invite any interested persons to join us, whether you are a Family Law practitioner, have a cross-over questions, or just want to get together with friends for lunch. The Family Law Section of the Merced County Bar Association meetings are the second Tuesdays of each month. Upcoming meetings are: April 9 and May 14, 2019 at noon, at King's Asian Cuisine, 360 W. Main Street, Merced, CA. RSVPs are appreciated but not required. Please email Casey Aitchison at [Casey@MercedDivorce.com](mailto:Casey@MercedDivorce.com) for RSVPs or additional information.

## 2019 Calendar of Events

**May 2 - MCBA Law Day, Italo-American Lodge – 9:30AM – 1PM 9:30 David Mann, 10:45 Judge McCabe on Ethics, Noon Speaker Justice Meehan (3 MCLE credits).**



**June 6 MCBA Lunch, Branding Iron – Travis Colby on Criminal Law Updates (1 MCLE credit).**

**July 4 – Enjoy Independence Day. No July meeting!**

**August 1 – MCBA Lunch, Branding Iron – Commissioner Shaver, subject TBA (1 MCLE credit).**

**September 5 - MCBA Lunch, Branding Iron – Lindsay Nako and David Nahmias on Legal Developments in LGBTQ Employment Discrimination (1 MCLE credit Elimination of Bias *REQUIRED SUBJECT*).**

**October 3 at 6 p.m. - Westside Dinner and at Wool Growers, 609 H Street, Los Banos.**

**November 7 - MCBA Lunch, Branding Iron - Annual Membership meeting and board elections.**

**December 5 at 6 p.m.- Holiday Party and Judges' Night at the Branding Iron in Merced.**

## **Court News**

### **Thomas Min**

MCBA President

Effective April 17, 2019, Court Reporter services will be provided in Family Law proceedings. Pursuant to Government Code 68086(a)(1)(A), a \$30 fee will be applied. It is the requesting party's responsibility to pay the reporter's fees for attending the proceedings, unless the requesting party has an approved fee waiver pursuant to California Rules of Court rule 3.55.

The Court will commence issuing tentative rulings on Probate matters effective Monday, March 25, 2019. Probate tentative rulings will be posted two days prior to the hearing. Parties may contact the Court at (209) 725-4240 for notification of oral argument.

**Modria Program:** The court is currently working with the Tyler CMS vendor on the Modria Online Dispute Resolution program for Small Claims. Modria will be designed to assist the parties in providing them with an online resolution program that will guide them in the process of coming to an agreement. It is the courts goal to have this new program available by the end of April 2019. This online resolution program does not replace the court's process in handling the small claims matters. Parties will still have a scheduled hearing date whether they come to an agreement or not. These agreements will be provided to the judge for review and for issuing an order. If the parties are unable to reach an agreement they will receive a notification to appear at their scheduled hearing date.

**Draft Local Rules-** will be posted on the Courts website on April 2<sup>nd</sup> for review and comment.

Please visit the Court website at [http://www.mercedcourt.org/court\\_calendars.shtml](http://www.mercedcourt.org/court_calendars.shtml) for upcoming calendar changes.

## Law Practice Innovation?

By George Leavell  
MCBA Vice President



As an Intellectual Property attorney, new innovations are what I work with every day. I help my clients bring their innovations to the world.

I recently attended an MCLE seminar on improving my Intellectual Property practice. I learned several ways I could innovate to better manage my practice and thereby service my clients more efficiently and very probably more profitably.

I am working on next year's MCBA event calendar and I am seeking suggestions for MCLE topics that would help you innovate and improve your practice.

Let me know what topics you want to see in next year's MCBA luncheons.

If you have any suggestions for MCBA events you would like to see, please pass those along to me as well.

Email me your ideas at: [george@georgeleavell.com](mailto:george@georgeleavell.com)

## Friendly Reminders

It is not too late to join the MCBA. Bar dues for 2019 are \$90 and \$60 for new members.

**Anyone interested in joining can contact Tom Min at [tmin1216@gmail.com](mailto:tmin1216@gmail.com) for an application.**

Download a Member Application on the member's resources page on our website: [www.mercedbar.org/member-resources/](http://www.mercedbar.org/member-resources/)

## SIDEBAR

Local attorney Casey Aitchison just returned from climbing to Everest Base Camp in Nepal! Casey and her husband, Steve Aitchison, own and operate the largest alpaca herd in California. Casey used the trek as an opportunity to verify the warmth and comfort of various apparel made from alpaca fiber. Casey made it to Everest Base Camp on day 8 of the climb, which she describes as a once in a lifetime experience.



Do you have an interesting or fun adventure to report? Send it in to [Secretary@mercedbar.org](mailto:Secretary@mercedbar.org) so that we can spotlight it in our next Newsletter!

## CCLS Presents 2<sup>nd</sup> Annual Alumni Event – Don't Miss Out!

All current and former staff, board, volunteers, interns are invited to attend

## WE'RE PUTTING THE BAND BACK TOGETHER AGAIN!

All current and former staff and board members are invited!  
Dance on over to the annual CCLS alumni event!



**FOOD, FUN, FRIENDS & REFRESHMENTS!**

**April 27, 2019**

**4PM to 8:PM**

DJ by Kase Entertainment  
Send music requests to:  
[kmadden@centralcallegal.org](mailto:kmadden@centralcallegal.org)

Director Emilia Morris: 5505 E. Butler, Fresno, CA 93727  
[emilia@centralcallegal.org](mailto:emilia@centralcallegal.org)

**Thank you for your 2019 membership.**

Casey Aitchison  
Jenna M. Anderson  
Vincent Andrade  
Blake Asdorian  
Geraldine Brown  
(Honorary)  
Corbett J. Browning  
Aaron Castleton  
Jeffrey C. Castleton  
Thomas Curry  
Betty L. Dawson  
(Honorary)  
Maile C. Dunlap

Thomas E. Ebersole  
Skye Emery  
James N. Fincher  
Arthur F. Godwin  
Jeff B. Grant  
Janinda  
Gunawardene  
Melbourne Gwin  
Emily J. Haden  
Robert T. Haden  
Kyle Hampton  
Forrest W. Hansen  
Bruce J. Hendricks

Raymond J. Isleib  
Salpy  
Kabaklian-Slantz  
George B. Leavell  
Kenneth R. Mackie  
Michael Mason  
Weldon "Buzz"  
Mattos  
Roger Matzkind  
Jane McAllister  
Kirk McAllister  
Derek Meyer  
Victoria Miller

Thomas Min  
Paul Carter Mullen  
Leanna Rhodes  
Kenneth M. Robbins  
Sara Rosenthal  
Monika Saini  
Shane G. Smith  
Stuart B. Spencer  
Karen R. Spinardi  
Ralph S. Temple, Jr.  
Jennifer Trimble  
Rickey D. Wallace

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