



LA ATTORNEY FEE PROGRAM “ATTORNEY FEE LITIGATION: IT PAYS TO BE REASONABLE”

June 19, 2008
Southwestern Law School
Los Angeles, CA
Noon-1:00pm Buffet Lunch
1:00-5:00pm CLE Program

Program Summary

With fee-shifting statutes and clauses expanding, litigation over attorney fees has reached record levels in California. Recovering attorney fees can often involve issues as complex as the underlying case itself. Knowing the standards and understanding the rules will help you maximize your attorney fee award. The LA Attorney Fee Program is designed to meet the increasing demand for useful information and practical advice on attorney fee recovery in California.

You will hear from some of LA's top litigators, appellate lawyers, and attorney fee experts on the latest trends and strategies for attorney fee recovery. Plus, our panel of experts discusses obtaining fee awards in class action litigation, reasonable fees in *Cumis* counsel situations, and recovering fees in bad faith insurance litigation.

This program not only reviews the “nuts and bolts” of attorney fee awards, but will explore some of the recent developments in attorney fee recovery. This program provides insight into attorney fee recovery from the trial and appellate level as well as a perspective from the bench. Our faculty members address:

- **California Fee-Shifting Provisions & Prevailing Party**
- **Fee Recovery in Commercial Litigation**
- **Attorney Fees in Class Action Litigation**
- **Attorney Fees & Legal Billing: A Practical Guide**
- **Reasonable Fees in *Cumis* Counsel Situations**
- **Recovering Attorney Fees in Insurance Bad Faith Litigation**

Our Course Book, *California Attorney Fee Recovery* contains substantive material on the latest case law, statutes, state bar opinions, tactics, and tips on attorney fee recovery in California.

With millions of dollars in attorney fees at stake, you can't afford to miss the program!!!

For more information on the LA Attorney Fee Program, or to register for this program, visit www.thenalfa.org/cle.

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Faculty Members

Gregory M. Bergman, Program Chair is the Partner of Bergman & Dacey in Los Angeles. Mr. Bergman's extensive trial and appellate experience has led him to consult and advise law firms on litigation plans, trial preparation, and appellate strategy. Mr. Bergman's firm has obtained millions of dollars in attorney fee recovery for clients such as law firms and policyholders. His firm offers a full-range of attorney fee expertise and has developed a particular speciality in the emerging practice area of attorney fee litigation.

Ken Moscaret is the Principal of Moscaret Consulting in Pasadena. Mr. Moscaret is widely regarded as one of the nation's leading authorities on attorney fees. He trains retired judges on large, complex attorney fee disputes. As an attorney fee expert, Ken is frequently retained by major law firms for a variety of attorney fee and legal billing matters. Ken is regularly sought to testify on the reasonableness of attorney fees in some of the nation's most high-profile cases including the Enron securities litigation.

John P. Dacey is a Partner at Bergman & Dacey in Los Angeles. Mr. Dacey has been litigating complex jury and bench trials for over 19 years. John was recently named as a *Super Lawyer* in Southern California. He concentrates in complex construction litigation, where he successfully and routinely obtains favorable settlements and verdicts for his clients, who include public entities, general contractors, and property owners. John maintains a successful record of recovering attorney fees in construction litigation. John also lectures extensively to trade associations and local bar association throughout Southern California.

John N. Quisenberry is the Founder of The Quisenberry Law Firm in Los Angeles. Mr. Quisenberry's firm focuses their litigation practice on Class Action, Insurance Bad Faith, and Construction Defect. John was recently selected as one of the top 100 lawyers in Southern California and is certified as a Civil Trial Lawyer by the National Board of Trial Advocacy. A former fighter pilot for the US Navy in Vietnam, John has successfully and skillfully represented clients on a host of consumer related litigation. John has also authored several publications helping clients understand consumer rights and the legal process.

James C. Martin is a Partner of Reed Smith LLP in Los Angeles. For more than 25 years, Mr. Martin has specialized in appellate law. Jim was recently selected by his peers as "The Best Lawyers in America" in Appellate Law and as one of Southern California's *Super Lawyers*. Jim has presided over complex appellate cases involving insurance coverage, class action, and claims for attorney fees post-trial. Jim's years of experience has led him to regularly consult with trial lawyers on substantive and procedural issues for eventual appeal. Jim has taught at the Hasting Law School and his written work has been published by the California Continuing Education of the Bar (CEB).

Aashish Y. Desai is a Partner at Mower, Carreon & Desai in Irvine. For three years running Mr. Desai has been selected by his peers as a “Rising Star” in Class Action Litigation by *Super Lawyers Magazine* and judged one of the “Best Young Lawyers in Southern California.” Aashish obtained a landmark judgment of \$2.1 million in attorney fees in a class action settlement. This award made headlines because it set a standard for how fees are calculated when defense counsel unnecessarily obstructs litigation. In addition to his successful class action record, Aashish also contributes by regularly writing articles for local and national publications and speaking before business, trade, and bar associations.

Joel Mark is a Partner of Nordman, Cormany, Hair & Compton in Oxnard, CA. Mr. Mark has concentrated in trial practice, complex business litigation, and arbitration. Joel has represented numerous attorneys and accountants in professional liability litigation. He is often called to testify as an expert witness on attorney fees, legal ethics, and litigation practice and procedures. Joel was the lead editor for the 1997 Edition of the State Bar of California’s Form Attorneys’ Fee Agreements publication and co-authored the State Bar of California’s *The Practical Ethics of Attorney Fees*. Joel is the former Chair of the State Bar of California’s Standing Committee on Mandatory Fee Arbitration and served on the California State Bar Committee on Professional Responsibility and Conduct.

James M. Roth is the Founding Principal and shareholder in the Roth Law Firm in San Diego. Mr. Roth has wide experience in the insurance law forum, practicing both first and third-party insurance coverage matters, first-party insurance appraisals, insurance fraud, third-party insurance defense litigation, and the defense of insurance “bad faith” litigation. He has lectured widely to professional and insurance groups on a variety of insurance related issues including ethics and *Brandt* fees. Mr. Roth authors a regular insurance column for *The Adjuster*, a publication of the San Diego Insurance Adjusters Association and *The Update*, a publication of the San Diego Defense Lawyers.

Gerald F. Phillips is of Counsel at Phillips, Lerner, Lauzon & Jamra in Los Angeles. Mr. Phillips is a highly respected mediator, billing expert, and legal scholar. One of the nation’s leading advocates for ethical billing, Gerald has spent a lifetime working to improve the standards in the legal profession. As a renowned mediator and arbitrator, he has worked in the entertainment industry, including a landmark motion picture case involving First Amendment issues, censorship, and antitrust. In addition to being an adjunct professor at Pepperdine Law School, Gerald also is a member of the Los Angeles County Bar Association’s Professional Responsibility and Ethics Committee.

James E. King is the Founder of the King Law Corporation in San Diego. Mr. King specializes in attorney fee disputes, legal ethics, and advises corporate counsel and law firms on litigation costs. Jim has testified as an expert witness on numerous attorney-client fee disputes and has skillfully represented prominent clients such as Prince Fahd Aziz of Saudi Arabia and Heisman Trophy winner Rashan Salaam. Jim serves as a Special Master for the State Bar of California and is Vice-Chair of the Fee Arbitration Committee for the San Diego County Bar Association. Jim also lectures and publishes works on attorney fee ethics and other related topics.

Program Agenda

Noon-12:45pm Buffet Lunch

12:45-1:00 CLE Registration

1:00-1:45 California Fee-Shifting Provisions & Prevailing Party Standards

Gregory M. Bergman discusses fee-shifting provisions under California law. The discussion focuses on the critical nuances associated with contractual and statutory fee-shifting provisions.

John P. Dacey addresses prevailing party concepts in attorney fee litigation and the points you must appreciate to have your client become one.

Ken Moscarel discusses the theory and practicalities behind the “lodestar” approach, which California courts use to make attorney fee awards.

1:50-2:35 Attorney Fee Recovery in Commercial Litigation

Gregory M. Bergman hands you the keys that unlock the mystery to successful recovery of attorney fees in commercial litigation.

John P. Dacey takes you into the concepts of “apportionment” and “inextricably intertwined” and conveys how these concepts can help you maximize your attorney fee award.

10 Minute Break

2:45-3:30 Attorney Fees in Class Action Litigation

Aashish Y. Desai discusses the practical realities of obtaining attorney fees in class action cases, either by way of settlement or litigation. He shares his own real world experiences in the infamous *Parks v Eastwood Insurance* case where the district court awarded almost twice as much in fees compared to the class settlement when defense counsel unnecessarily litigated and refuse to settle until the bitter end.

John N. Quisenberry offers his thoughts and experiences in dealing with defense arguments in the settlement and litigation of class action cases.

James C. Martin addresses state and federal appellate cases dealing with the review of fee awards in class action proceedings. He discusses the key issues involved in the affirmance or reversal of these awards and provides observations on how to address the problems or concerns raised by appellate courts.

3:35-4:35 Attorney Fees & Legal Billing: A Practical Guide

Joel Mark provides a comprehensive review of the ethics surrounding attorney fees and billing practices in California. He discusses the ethical considerations related to collecting attorney fees under Article 13 of the State Bar Act.

Gerald F. Phillips reviews the ethics and abuses of hourly billing. He addresses and raises questions about the ethics surrounding mandatory billing requirements.

10 Minute Break

4:45-5:30 Attorney Fees & Insurance Coverage Litigation

Ken Moscarel discusses *Cumis* counsel fee disputes under California Civil Code Section 2860.

James M. Roth discusses the limited availability to recover attorney fees in “extra-contractual” litigation pursuant to the guidelines handed down in the *Brandt v. Superior Court* decision.

John N. Quisenberry discusses the economics of insurance bad faith litigation after *State Farm v Campbell* and *Cassim*.