

# CAOC 2018 award finalists

*Consumer Attorney and Street Fighter of the Year will be revealed Nov. 17*

CAOC is pleased to announce the finalists for the 2018 Consumer Attorney of the Year and Street Fighter of the Year awards. The winners will be revealed at the Annual Installation and Awards Dinner Nov. 17, to be held in conjunction with the 57th Annual Convention ([www.caoc.org/18Convention](http://www.caoc.org/18Convention)) at the Palace Hotel in San Francisco.

Consumer Attorney of the Year is awarded to a CAOC member or members who significantly advanced the rights or safety of California consumers by achieving a noteworthy result in a case. Eligibility for Street Fighter of the Year is limited to CAOC

members who have practiced law for no more than ten years or work in a firm with no more than five attorneys. To be considered for either award the case must have finally resolved between May 15, 2017 and May 15, 2018, with no further legal work to occur, including appeals.

The finalists for these awards were selected by a committee consisting of members of CAOC's Executive Committee; representatives of the attorney groups that won these awards in each of the last three years; and six randomly-selected members of CAOC's Board of Governors. Here are the 2018 finalists:

## CONSUMER ATTORNEY OF THE YEAR FINALISTS

**Edward D. Chapin, Allison H. Goddard, Danielle A. Fuschetti, David Sanford and Jon R. Williams**



*Burns v. San Diego State University, et al.*

Winning justice for a coach fired for advocating for women athletes

Beth Burns was the winningest coach in the history of San Diego State University's women's basketball program when she was fired in 2013, allegedly for workplace violence. A video showed her hitting a clipboard on the thigh of an assistant sitting next to her on the bench during a game. But the real reason she was fired was that she regularly complained to school officials about their inequitable treatment of her team, leaving it significantly underfunded, when Title IX requires colleges and universities to provide substantially similar support to women's sports teams as it does to men's teams. "I think athletic departments that are traditionally run by men, former athletes in many instances, aren't sensitive to Title IX issues," Chapin said. "I think there's an attitude that these sports and the support of them are forced upon them by Title IX, and they simply don't like that." In preparing for trial, the attorneys had to track down witnesses around the country, many of whom coach in collegiate athletics and were hesitant to become involved in litigation. Those witnesses'

testimony demonstrated that the accusations that Burns was an abusive co-worker were false. The attorneys also showed that Burns' annual performance reviews put her at or near the top of school employees. A San Diego jury awarded Burns one of the largest Title IX awards ever, a verdict that received national attention in the press because it was a landmark ruling in favor of a coach of women's sports. As a result athletic departments across the country were put on notice that they need to pay more attention to women's programs.

**Ricardo Echeverria, Marsha E. Barr-Fernandez, Steven A. Heimberg and Jeffrey S. Mitchell**



*Arteaga Alvarez, et al. v. Community Regional Medical Center, et al.*

Heart surgery patient in vegetative state after surgeon leaves early

In 2012, Dr. Pervaiz Chaudhry performed open-heart surgery on 70-year-old Silvino Perez at Fresno's Community Regional Medical Center. Because of his control over patient referrals, this junior physician had become the most powerful cardiothoracic surgeon in the Central Valley and had been made director

of cardiothoracic surgery for CRMC and its sister hospital. The key issue in the case was whether Dr. Chaudhry had a pattern of inappropriately leaving the operating room and hospital during surgeries with a physician assistant in charge. To prove this occurred with Perez, and that this was his pattern, the attorneys had to overcome adamant denials, not only by Dr. Chaudhry, but also by the anesthesiologist and all nurses in the OR. After Dr. Chaudhry left, Perez began bleeding profusely; by the time anyone able to perform the necessary surgical intervention arrived, Perez already had suffered severe brain damage. Six years later, he remains in a near-vegetative state. The attorneys contended that Perez’s brain damage would not have occurred but for Dr. Chaudhry’s inappropriate conduct. In addition to providing compensation for Perez’s future medical care, a Fresno jury awarded Perez and his wife compensation for pain and suffering, in an amount 100 times California’s unjust cap on noneconomic damages for medical malpractice under MICRA. The jury also found Dr. Chaudhry acted with malice, oppression or fraud, and awarded punitive damages. Exposing Dr. Chaudhry’s misconduct produced substantial institutional changes reestablishing patient safety as a priority over profits, including the revocation of Dr. Chaudhry’s privileges.

**Browne Greene, Daniel K. Balaban, Holly N. Boyer, Shea S. Murphy, Jeremy D. Jass and Philip Kent Cohen**



*Curtin v. County of Orange*

**Holding a sheriff’s department accountable for a sexual predator on the force**

Orange County sheriff’s deputies responded to a domestic violence call after Alexa Curtin and her boyfriend got into an argument at his home. Although recognizing that Curtin was under the influence of alcohol, the deputies decided to drive Curtin to her car which was parked nearby. Once there, deputy Nicolas Caropino made numerous sexually explicit statements to Curtin and instructed her to remain in her car and that if she left she would be in “big trouble.” Caropino drove to the station, dropped off his partner, then returned to Curtin, out of uniform, and raped her. Caropino had sexually assaulted another woman just two months previously, but the sheriff’s department had

allowed him to stay on patrol duty, and remain in contact with the public, even as he was under criminal investigation for that allegation. In a federal jury trial, the attorneys exposed documents that showed that the department turned a blind eye to a known sexual predator on the force. The jury awarded damages to Curtin, finding the county was partially responsible for her assault because of a county policy that delayed an internal investigation while a criminal investigation against Caropino for the first assault was underway. That policy meant Caropino was not placed on leave until nine months after the first allegation, and during that time he raped Curtin. The verdict shows how victims of sexual abuse can fight back through the civil justice system to hold a public entity responsible for its misdeeds, and it should compel authorities to change their internal policies to help prevent this from happening again.

**Brian J. Panish, Rahul Ravipudi, Robert Glassman and Sang (Nathan) Yun**



*Lee v. Pupil Transportation Cooperative*

**Making school buses safer for students after a tragic death**

Hun Joon “Paul” Lee, a 19-year-old nonverbal autistic student, died from hyperthermia after he was left alone for hours on a locked school bus in a Whittier bus yard on a 96-degree day. Lee was abandoned by a substitute bus driver for Pupil Transportation Cooperative, who was arranging via text to have sex with his girlfriend (who was also a driver for the company) instead of checking to see if anyone was still on board. Lee relied on the driver to help him off the bus. The attorneys learned that four other students had been abandoned on one of the company’s buses over the previous decade, and none of the drivers involved were fired. The family reached a settlement with the bus company to compensate them for the loss of their son, and as part of the settlement the Whittier Union High School District and the bus company implemented ID cards and bus monitors to track all students getting on and off buses. The district also instituted a rule to call a student’s home or the bus company if the student cannot be found within 30 minutes of school starting. In addition, the family and the attorneys worked with the state Legislature to make sure no other family has to suffer the same loss. Thanks to their efforts, the Paul Lee School Bus Safety Law went into effect at the start of the current school year, the first law of its kind in the country, requiring all school buses in the state to be equipped with an alarm in the back that must be manually deactivated, so that drivers check the bus for students before disembarking.

**Craig M. Peters and David L. Winnett**



*Doe v. Mazda Motor of America, Inc., et al.*

**Fighting for a woman seriously injured by a defective car seat**

A driver had to brake suddenly to prevent a crash as traffic ahead of her slowed on the highway. After stopping her Mazda Protégé, she was rear ended by a one-ton pickup truck traveling at 65 miles per hour. The impact caused her seatback to collapse backward, and the headrest and the back of her head were struck by the intrusion of her trunk and back seat from the impact. She suffered a traumatic brain injury, a broken spine and broken ribs, and was left a partial paraplegic with a lifetime of excruciating pain. The attorneys said the collapsing seatback was a design defect and a reasonable consumer would not expect the seatback to collapse from a rear end collision at highway speeds. If the seatback held, the victim would have experienced few or no injuries. Mazda argued that a change in velocity of more than 60 mph is impossible to design a seatback for, and no government agency or industry group has required that seatbacks be built to withstand these type of impacts. But this seatback design fails at low speeds, even in an impact with a change in velocity of 20 mph. A jury agreed that the seatback was defectively designed, compensating the victim for her suffering and medical care. It is hoped that this verdict, along with other recent cases involving failing seatbacks, will have the effect of preventing the deaths or serious injuries of other drivers and passengers. This was a difficult victory against a company, and an industry, that was willing to spend unlimited amounts of money to fight against a simple change that had the potential to save lives.

**Geoffrey S. Wells, Ivan Puchalt, Christian T.F. Nickerson and Andy Basseri**



*Sanchez v. Durham School Services, et al.*

**Showing a bus company's negligence led to a horrible injury**

Six-year-old Isabella Sanchez was struck by a car while running across a Highland street in the middle of a block to go to her school bus stop. She suffered catastrophic injuries and is now wheelchair-bound; she will need 24-hour care for the rest of her life. But while Isabella didn't cross the street at a legal intersection, she was following a path to her bus in the middle of the block that was taken by other children and parents every day. Parents testified that they frequently crossed the street in plain view of school bus drivers. Drivers never notified the school district about the problem of people crossing mid-block, even though both the district and the bus company allegedly had a discipline process in place in order to warn students and parents about dangerous practices at bus stops. That discipline process could be invoked only if bus drivers reported, and the driver on Isabella's route failed to report mid-street crossings, in clear violation of the district and bus company policies. At trial the school district's transportation director said the bus drivers are the "eyes and ears for the school district" and that the district relies on drivers to report dangerous conditions at bus stops, including unsafe mid-block crossings. A San Bernardino County jury found Isabella's mother partially at fault for Isabella's injuries but awarded Isabella damages to help cover her ongoing care. This verdict will have school bus companies and their drivers focus on safety at the entire school bus stop environment.

**STREET FIGHTER OF THE YEAR FINALISTS**

**Matthew C. Freeman and Rebecca J. Freeman**



*Robinson v. U-Haul Company of California, et al.*

**A small business owner wins 10-year fight against billion-dollar corporation**

Leigh Robinson had a business renting U-Haul trucks in Vallejo until he and his customers became dissatisfied because U-Haul repeatedly failed to deliver trucks on time and supplied trucks that were unsafe. Robinson terminated his contract with U-Haul

and started supplying customers with trucks from a competing company. U-Haul sued Robinson for breach of contract and an injunction that sought to prohibit Robinson from operating a competing business, stating Robinson had signed a non-competition clause. Non-competition clauses are illegal in California. U-Haul dismissed its lawsuit after the trial court denied its request for the injunction. Robinson then sued U-Haul for malicious prosecution and unfair business practices, and he sought an injunction prohibiting U-Haul from seeking to enforce the illegal non-competition clauses. Matt and Rebecca Freeman took on major national law firms with more than 800 attorneys. They interviewed dozens of former U-Haul dealers across the state, mom and pop operators who told about being forced out of business when they tried to leave U-Haul and open a competing business. Most of these people went out of business because they did not know the

non-competition clauses they had signed were illegal. In 2013, a Solano County jury returned a verdict in favor of Robinson and found that U-Haul had engaged in unfair business practices and had engaged in malicious prosecution. U-Haul continued to appeal until the case was finally resolved in a scathing opinion against U-Haul, citing the company's troubling past and the need to protect U-Haul's customers and competitors. Alas, Leigh Robinson never saw his vindication; he died of pancreatic cancer shortly before the appellate court issued its decision in his favor.

**Taylor Rayfield**



*T.H. v. Torrance Unified School District, Thomas Snider*

**Taking on a school district that allowed a sexual predator to coach wrestling**

Thomas Snider, a longtime Torrance High School computer teacher, was hired to coach the school's wrestling team in 2013, despite past allegations that he had sexually assaulted an 11-year-old boy on a camping trip. As coach, he molested dozens of boys on his team. They testified that Snider made them stand naked in front of him in a dimly-lighted storage room so he could examine and touch their genitals and buttocks. Snider knelt down in front of some of the naked boys, shining a flashlight to inspect their private areas. The boys, ranging in age from 13 to 15, said they did as their coach asked, believing his "skin checks" were a prerequisite to participate in wrestling. Taylor Rayfield represented one of these boys, who in addition to his "skin checks" also had his penis stroked under the guise of a massage when he complained of a pulled groin. During the course of investigating this case, Rayfield uncovered evidence that showed years before her client was abused, school staff members, including the principal, were aware of allegations of sexual abuse by Snider. Rather than investigate or alert law enforcement, the school officials complained to Torrance police that the man who made the allegations was harassing them. The principal wrote a report of the allegations that was later found in a file cabinet. Snider received a sentence

of 69 years to life in prison for his lewd acts. Rayfield's tenacity and negotiating skills resulted in a settlement compensating her client for the abuse he suffered, and that helped more than two dozen other victims also reach settlements with the school district.

**Brian J. Virag**



*Fuentes v. Pioneer Street Associates*

**Helping a family plagued by bedbugs hold a property owner accountable**

Margarita Fuentes and her four children, all under the age of 10, were plagued by bedbugs in their Bakersfield apartment. It was hard for them to sleep, knowing they would awake each morning with dozens of bites. About two months after they moved in, Fuentes was lying awake one night when she saw the bugs crawling on her children. She notified the management of their low-income housing complex, but it was another two months before an inspection was made that verified the bedbugs were there. Fuentes was then told it was her responsibility to pay to have the bugs eradicated. Management blamed her for the bugs, but her neighbor, with whom she shared a wall, had previously reported a bed bug infestation before Fuentes moved in. Fuentes couldn't afford to pay the hundreds of dollars for pest control to deal with the problem; she could barely make rent. Brian Virag represented Fuentes and took the complex owners to court for rendering the property uninhabitable by failing to maintain pest control. Finally management sent a company in to spray, but they sprayed only one room, which was not sufficient, especially with only one treatment. The family suffered for months until they moved to a relative's home. They had to throw out most of their bug-infested belongings. A Kern County jury awarded Fuentes compensation for her family's suffering, including punitive damages against the complex owners in an attempt to make them treat the problem appropriately in the future. The verdict has sent a message to property owners that bedbug infestations cannot be ignored.

**INSTALLATION & AWARDS DINNER**

**SATURDAY, NOVEMBER 17, 2018 • PALACE HOTEL, SAN FRANCISCO**

**6:00 P.M. HOSTED WINE RECEPTION • 7:00 P.M. DINNER**

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