



CONSUMER ATTORNEYS OF CALIFORNIA

Seeking Justice for All

CAOC announces 2017 award finalists

Consumer Attorney and Street Fighter of the Year revealed Nov. 18

SACRAMENTO (Aug. 24, 2017) – Consumer Attorneys of California president Greg Bentley today announced this year’s finalists for the organization’s two major member awards, Consumer Attorney of the Year and Street Fighter of the Year. The winners will be revealed at [CAOC’s Annual Installation and Awards Dinner](#) Nov. 18, to be held in conjunction with [CAOC’s 56th Annual Convention](#) 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, 2016 and May 15, 2017, with no further legal work to occur, including appeals.

Here are the 2017 finalists:

CONSUMER ATTORNEY OF THE YEAR

James C. Allen, David J. Semelsberger and Linda B. Reich

Andrade, et al., v. MHC Operating Limited Partnership, aka Equity Lifestyle Properties, Inc., et al.

FIGHTING BACK FOR RESIDENTS OF A NEGLECTED MOBILE HOME PARK

Residents of the California Hawaiian Mobile Estates in San Jose saw their living area deteriorate under the ownership of Equity Lifestyle Properties, the largest owner of mobile home parks in the country. The company’s business model was to buy mobile home parks and then reduce the maintenance expenses each year. Managers, district managers and the vice president overseeing the California parks all received bonuses if they did not exceed the previous year’s maintenance costs at a park. As a result of this policy, California Hawaiian went from being a beautiful park to an eyesore. The fences were falling down and the park’s common area buildings were riddled with dry rot. Water for the entire park often was shut off without notice for up to 20 hours at a time. One resident was evicted on Christmas Eve after complaining that an avocado tree growing underneath his home had burst through his shower wall. California Civil Code sections requiring a park owner to maintain the park can be enforced only by the residents suing the park, but park owners discourage such lawsuits by threatening residents they could be forced to pay millions of dollars for the park owners’ attorney fees if the owners prevail. Jim Allen and David

Semelsberger represented 61 California Hawaiian residents and overturned an order moving the dispute to arbitration. A Santa Clara County Superior Court jury awarded significant punitive damages to the residents. The verdict got the attention of park owners throughout the state, prompting them to improve conditions.

Lori E. Andrus, Jennie Lee Anderson, Leland H. Belew, Paul L.W. Laprairie, Lori J. Costanzo and Gabrielle Korte
Coates, et al. v. Farmers Group, Inc., et al.

ACHIEVING EQUAL TREATMENT FOR WOMEN AT AN INSURANCE GIANT

Lynne Coates, an attorney in the claims litigation department at Farmers Insurance, learned that a male colleague made substantially more than she did, even though he was admitted to the bar a year later than she was. She also learned that other male lawyers in her department were paid more than women with more experience. After she informed her supervisor, she was told the company did not believe it had a “gender issue” and would not adjust her salary. She then received modifications to her job duties that were clearly a demotion, and she resigned. That led to a class action under the federal Equal Pay Act and the newly-revised California Fair Pay Act and, ultimately, a groundbreaking nationwide settlement that holds the nation’s third-largest insurance company accountable for the millions of dollars improperly taken from its female employees. The settlement guarantees lasting changes to Farmers’ behavior towards its female attorneys while providing financial compensation to the victims of its discriminatory pay practices. Farmers is required to audit its payroll for the next three years to ensure equal pay into the future, and the company has promised to increase the representation of women at every level within its claims litigation department each year over the next three years. The plaintiffs in this case, as insurance company attorneys, are normally on the other side of the negotiating table from consumer attorneys, but Lori Andrus said she loved representing them because “our similarities are greater than our differences.”

Elizabeth J. Cabraser, David S. Stellings, Kevin R. Budner, Wilson M. Dunlavey and Phong-Chau G. Nguyen
In re Volkswagen “Clean Diesel” MDL

TAKING POLLUTING CARS OFF THE ROAD AFTER VOLKSWAGEN’S DECEIT

Volkswagen sold 575,000 diesel-powered cars in the U.S. under the Volkswagen and Audi brands on which the company installed software intentionally changing the vehicles’ emission production during official testing. Only when the programming detected the vehicles were undergoing official emissions testing did the cars activate full emission control systems. Those emission controls were turned off during actual road use, producing up to 40 times more pollutants than the testing amounts in an extraordinary violation of U.S. clean air laws. After the U.S. Environmental Protection Agency issued a violation notice to Volkswagen in September 2015, vehicle owners, state governments and federal agencies all sought compensation and relief from VW through litigation. More than 1,000 individual civil cases and government claims were consolidated in federal court in Northern California, and Elizabeth Cabraser was appointed by the court to be lead counsel. In that capacity she also chaired the plaintiffs’ steering committee

that included numerous prominent attorneys including CAOC past presidents Frank Pitre and David Casey, Jr. Months of intensive negotiations produced interrelated settlements that were given final approval in October 2016 and May 2017. The settlements offer owners and lessees of Volkswagen and Audi 2.0- and 3.0-liter diesel vehicles substantial compensation through buybacks, lease terminations and government-approved emissions modifications, resulting in these polluting vehicles being either fixed or taken off the road. Most consumers have opted for buybacks, and VW has already paid or committed to pay more than \$10 billion. As *The American Lawyer* wrote, “This deal is a win for literally everyone who breathes.”

Michael A. Kelly, Brian J. Panish, John H. Gomez, Khaldoun A. Baghdadi, Pete Kaufman, Matthew D. Davis, Valerie N. Rose, Brian Devine, Ken Seeger and Dean A. Goetz
Kransky, et al., v. DePuy, Inc., et al.

HOLDING A MEDICAL DEVICE MANUFACTURER ACCOUNTABLE FOR A DANGEROUS DESIGN

DePuy Orthopaedics, a division of Johnson & Johnson, introduced the ASR hip that, unlike traditional systems made of ceramic or plastic materials, was fabricated exclusively of metal. DePuy claimed the metal was so hard there would be no wear when the components rubbed against each other. The design was flawed, however, and after the hips were sold to doctors as a major advance, they began generating metal debris which is toxic to human tissue. Walking, standing, and stair climbing produced tiny metal flakes that traveled from the hip via the patient’s bloodstream. The debris produced tissue necrosis and cell death. The ASR was taken off the market when researchers projected that 40 percent of recipients would experience a device failure within five years requiring painful and dangerous follow-up surgery. Mike Kelly, Brian Panish and John Gomez led the legal team that sought justice for retired prison guard Loren Kransky while he was still alive after he was diagnosed with unrelated kidney cancer. They sought and obtained an order advancing the Kransky case to trial as the first ASR hip trial in the country. At trial their team showed that, despite its knowledge of the likelihood that patients would be harmed, DePuy failed to warn doctors or patients. The company rejected plans for a redesign because it would cost too much, favoring profits over patients. A Los Angeles County Superior Court jury found in favor of Kransky, and eight months later, with thousands of ASR lawsuits pending, Johnson & Johnson agreed to a multi-billion-dollar nationwide settlement.

David R. Lira, Thomas V. Girardi, Martin Buchanan and Richard D. Burbidge
Williamson v. Mazda Motor Corp.

A LONG BATTLE TO PROVE A DEFECTIVE SEAT BELT DESIGN CAUSED DEATH

In 2002 Thanh Williamson was killed in a head-on crash in Utah while riding in a Mazda MPV minivan. She died from severe abdominal injuries and internal bleeding caused by her “two point” (lap-only) seat belt when the forces of the crash caused her body to jackknife around the belt. Her husband and daughter, both of whom had “three-point” (lap and shoulder) belts, both survived. In 2004 David Lira began what turned out to be a 13-year quest for justice for Thanh’s family that involved state courts in California (where Mazda’s North American headquarters are) and Utah and eventually the U.S. Supreme Court. Lira claimed the two-point seat belt was a

defective design that caused Thanh's death. Mazda argued, as other defendants have successfully argued in similar cases, that because it complied with federal safety standards that gave car makers a choice between different types of belts, state law was preempted. An Orange County Superior Court judge agreed with Mazda, a decision that was upheld by the California Court of Appeal, and the California Supreme Court denied a request to review the ruling. Lira and appellate attorney Martin Buchanan then went to the U.S. Supreme Court, which, in a rare pro-consumer decision, voted unanimously in 2011 to overturn the California ruling, finding that Federal Motor Carrier Safety Regulations related to seatbelts do not preempt a state tort lawsuit. That led to a confidential settlement of the Williamson suit in 2017 and will help many others in similar cases nationwide.

Rahul Ravipudi, Thomas A. Schultz, Deborah Chang, Matthew J. Stumpf, Jake Douglass and Brian J. Panish

Moradi v. Nevada Property 1 LLC

ELIMINATING THE BRUTE FORCE OF "OLD" VEGAS CASINOS/NIGHTCLUBS

David Moradi was a VIP guest at a popular Las Vegas casino/nightclub and hotel who had just paid his bill when he was confronted by the general manager and security guards who demanded to see his identification. When he refused, he was surrounded by security guards and placed in an impermissible and deadly chokehold, and his head was slammed into a steel door before he was thrown outside and continuously beaten in an area that was not under camera surveillance. He was subsequently diagnosed as sustaining a traumatic brain injury, which effectively ended his successful hedge fund management career. The jury awarded a record verdict and decided to award punitive damages. The case settled before the punitive verdict was entered. Within 24 hours of the publication of the verdict throughout the country, security personnel from every major casino/nightclub in Las Vegas were called in for pre-shift briefings and training sessions emphasizing appropriate "hands-off" policies and stressing the end of the use of brute force that had been so prevalent in Vegas casinos for decades. Security experts agree that the verdict was a "game changer" that rattled the industry to its core, thereby forever ending a practice that had long tarnished the Vegas tourism experience for many out-of-state visitors. These same entities also own nightclubs throughout California and New York, and the verdict ensures that brute force will no longer be tolerated nationwide.

STREET FIGHTER OF THE YEAR

Daniel K. Balaban and Daniel G. Brown

Behm v. Cervenka & Lukes Mortgage Corporation, et al.

TAKING ON A PREDATORY LENDER TO REGAIN A WOMAN'S HOME

In 2014 Barbara Behm took out a loan from Cervenka & Lukes to renovate the historic Los Angeles home she had purchased in 2000, with the house as collateral. But the loan came with a hidden 24.99% default interest rate if she missed a payment. When she missed two payments, her

monthly payments increased by about \$20,000, and she was unable to continue making payments. Cervenka & Lukes began foreclosure proceedings that led to Behm being evicted by six sheriff's deputies and the house being sold. The lenders were using a loophole to avoid consumer protection laws by classifying Behm's mortgage as a "business loan" (Behm had occasionally listed the home as a short-term rental on Airbnb). That was how they planned to get around safeguards that were enacted after the housing crisis to crack down on predatory lenders. Cervenka & Lukes intentionally issued the loan with the hope and expectation that it would own the home when Behm defaulted. A Los Angeles Superior Court jury awarded Behm compensation for the value of the loss of the home and the loss of the use of the home for Airbnb purposes, as well as compensation for her emotional distress in losing her home. The jury also found Cervenka & Lukes acted with malice, oppression or fraud. A confidential settlement was reached before punitive damages were determined, allowing Behm to regain ownership of the home.

Christopher J. Keane and Andrew N. Chang
B.H. v. County of San Bernardino, et al.

PROTECTING VICTIMS OF CHILD ABUSE BY REQUIRING CROSS-REPORTING

A two-year-old San Bernardino County boy was beaten and had bruising all over his body after court-ordered visitation with his father. A family friend reported suspected child abuse to the San Bernardino County Sheriff's Department, and a deputy responded to investigate. The deputy (who had gone to high school with the abuser's father) subjectively concluded that the boy was not abused, and she ultimately downgraded the child abuse report to a miscellaneous incident report. As a result the sheriff's department never cross-reported to Child Protective Services that the suspected child abuse report had been made. A month later the child suffered catastrophic brain damage consistent with shaken-baby syndrome while in the custody of his father. Nine law firms turned down this case before sole practitioner Chris Keane took it. He sued the county for violating a mandatory duty to cross-report the child abuse report to CPS, thus precluding CPS from investigating and intervening to protect the child. A San Bernardino County Superior Court judge ruled that no duty existed for the sheriff to cross-report to CPS, and the California Court of Appeal upheld the ruling, but Keane and appellate attorney Andy Chang took the case to the California Supreme Court. Despite opposition from the California State Association of Counties and the League of California Cities, the high court reversed the ruling and allowed the suit to proceed. A settlement was reached to compensate the boy for his injuries, and the attorneys' work to strengthen cross-reporting requirements will protect other abused children in the future.

Austin G. Ward, Shannon H.P. Ward and Jake Douglass
In the Matter of Julia Romelia Mejia-Mejia, In Removal Proceedings

HELPING A WOMAN WHO FLED VIOLENCE IN GUATEMALA STAY IN THE U.S.

Julia Romelia Mejia-Mejia fled to the United States from Guatemala when she was 17 to escape years of brutal violence by her brother-in-law, including being sexually assaulted from the ages of 6 through 16. Julia's brother-in-law was a member of Mara-18, a vicious gang in Guatemala, and he promised to kill Julia and her family if she ever told anybody what he did to her. The

police would not respond to her repeated calls for help. Julia's neighbors loaned her enough money to get to the U.S., but Julia was detained by Customs and Border Patrol as she crossed into Texas, and she was processed for removal from the country. Austin Ward, Shannon Ward and Jake Douglass represented Julia pro bono after being assigned the case by the public interest law firm Public Counsel. With the assistance of Public Counsel, the attorneys worked to learn the procedural rules and substantive law surrounding asylum relief, having had no previous experience in that area. Because Julia was a minor at the time of her detention, the attorneys were able to apply for asylum for her as an unaccompanied minor and take the process out of an adversarial setting. The attorneys interviewed Julia and her family, obtained documents, retained experts, and prepared the asylum application, setting forth various persecuted groups in which they argued she should be included and through which she should be granted asylum. Just before Christmas 2016, Julia's request for asylum was granted, preventing her from being sent to a likely death in Guatemala.

Consumer Attorneys of California is a professional organization of plaintiffs' attorneys representing consumers seeking accountability against wrongdoers in cases involving personal injury, product liability, environmental degradation and other causes.

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